App. F. IX-4

Previous References

1936-37
(C6)

File No. 55/36

Serial Nos. 3, 4

Letter References.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 3 & 4

Part B for April 1937

SUBJECT.

Papers received from His Highness
the Chancellor, Chamber of Princes.

WD 0418—GPB—22,500—29-8-36

C 977

C 1005 / Tour.

PRIVATE SECRETARY MYSORE

THE PALACE,

BANGALORE.

13th November 1936.

DEWAN'S OFFICE
18 DEC 1936
No. 1929

4046
16/12

4064
18.12.1936

Dear Mr.Kesavaiengar,

I am desired to forward herewith for favour of disposal the following papers received from His Highness the Chancellor of the Chamber of Princes, New Delhi:—

1. Circular letter No.40, dated the 5th instant, asking to be informed, for inclusion in the Agenda, of any resolutions or subjects to be moved at the next Session of the Chamber of Princes in February 1937.

2. Copy of a report of the Drafting Committee appointed by the Punjab States Council at its session held in Lahore on the 6th of November and the following days.

For perusal.

Yours sincerely,

(Devan)

MS 14/12

Suld

MS 18/12

MS 16-12-36

1st member + 2nd member

SPR 18/12

MS 20/12/36

MS 21/12

No. 40.

Council House
New Delhi.
5th December, 1936

Your Highness,

The dates of the next Session of the Chamber of Princes have been provisionally fixed about the 20th February 1937. As the Agenda of the Chamber will be considered and framed by the Standing Committee at its next meeting on the 20th January, 1937, it is requested that any resolutions which Your Highness may wish to move in the forthcoming Session or any subject that yo desire to be included in the Agenda may kindly be intimated to my Office at the latest by the 7th of January 1937. Brief explanatory memoranda may also kindly be sent along with the resolutions.

Trusting Your Highness is in the enjoyment of excellent health,

Yours sincerely,

UDAIBHAN SINGH,

Maharaj-rana of Dholpur,
Chancellor, Chamber of Princes.

Office of H.H. the Chancellor, Chamber of Princes.

Forwarded with the compliments

of His Highness the Chancellor, Chamber of

Princes,

Council House,
New Delhi.
5th December, 1936.

REPORT

of

The Drafting Committee appointed by the Punjab States Council at its session held in Lahore on the 6th of November and the following days.

REPORT

The Punjab States Council at its sessions in Lahore for the purpose of formulating views with regard to the Instrument of Accession, met on November 6th, 7th, 8th and 9th, and as a result of its deliberations reached the following unanimous conclusions :—

A. WITH RESPECT TO THE GENERAL CLAUSES OF THE INSTRUMENT OF ACCESSION.

(*a*) That clause 6 of the Government draft Instrument of Accession, circulated to the Rulers for their consideration by His Excellency the Viceroy, should be amended as follows :—

> "Nothing in this Instrument affects the continuance of my sovereignty in and over this State, *and* subject to the express terms of this Instrument and of any Federal Law made by this State by virtue thereof, *all powers, authority and rights in and over this State, and the exercise thereof, are reserved to the Ruler of this State*".

(*b*) That the Instrument of Accession should also contain the following additional general clauses :—

1. "Nothing in this Instrument shall affect my rights and obligations in relation to the Crown with respect to any matter not within the functions exercisable by, or on behalf of, the Federation by virtue of this Instrument, and no Federal Authority shall have jurisdiction with respect to such rights and obligations".

2. "All functions exercisable by any Federal Authority in relation to this State by virtue of clause (1) of this Instrument, shall be exercised exclusively by a Federal Authority except, in so far as the same are exercisable by the Ruler of this State, the same may be exercised by him".

   NOTE.—The above clauses should be inserted after clause 2 of the Government draft.

3. "The Federal Legislature shall not have power to make laws for this State save with respect to the matters so specified and subject to such limitations".

   NOTE.—The above clause should be inserted between the first and second paragraphs of clause 3 of the Government draft.

4. I have set out in the.....Schedule to this Instrument certain rights and privileges appertaining to me and my State, and nothing in this Instrument is intended or shall be deemed to affect those rights and privileges or any of them, or to

entitle any Federal Authority in the exercise, or purported exercise, of its functions, whether within or without the territories of my State, to act in any way in derogation or contravention of any of such rights and privileges".

NOTE.—The above clause should be inserted under "Additional paragraphs for insertion in proper cases", as an additional clause to be designated by the letter "D".

5. "All appointments of Representatives of this State to the Council of State and to the Federal Assembly shall be made by the Ruler of this State, and such Representatives may be nominated in such manner as he may prescribe. Any vacancy due to death, resignation or other cause shall be filled by the Ruler of the State".

NOTE.—The above clause should be inserted in the Government draft immediately after clause (6) unless provided for by amendment of the Act.

The above amendment and clauses were recommended both by the Committee of Ministers, generally referred to as the Hydari Committee, at its meeting at Bombay on September 27th, and by the meeting of Princes and Ministers held in Bombay on October 31st.

The Instrument of Accession.

The form and contents of the Instrument of Accession are of vital importance to the Indian States as it is in effect the Constitution of the Federation with respect to the Indian States.

The Government draft Instrument of Accession consists of recitals, a preamble and clauses, and annexed to the Instrument are the Schedules.

The recitals begin with the word "Whereas".

The first recital recognizes that the Indian Rulers took part in originating the idea of Federation.

The second recital recognizes that not only an Act of Parliament, but also the accession by Rulers, is requisite to the establishment of the Federation.

The third recital recognizes that the Federation is to be established by His Majesty, but only when the requisite number of Indian Rulers have acceded to the Federation.

The fourth recital recognizes that the Government of India Act cannot apply to the territories of an Indian State save by virtue of the Ruler's consent.

The preamble which follows was proposed by the counsel of Indian Rulers. It begins by a recognition that the Instrument of Accession is an act of sovereignty of the Ruler. The second clause states the purpose of the Ruler in acceding, namely "of co-operating in the furtherance of the interests and welfare of India by uniting in a Federation, under the Crown, with the Provinces." This is an important recital. One of the essential safeguards demanded by the Rulers of Indian States was that

they were to be partners. This declaration in the preamble recognizes that the Federation is not merely the creation of Parliament, but it is also the Rulers' Federation, their Federal Executive, their Federal Legislature, their Federal Court, created by their uniting in a Federation under the Crown.

The clauses of the Instrument follow. There are a number of clauses required by the Government of India Act which may be termed Statutory Clauses.

Clause 1 is a statutory clause required by Section 6.-(1) (*a*). In it the Ruler declares that he accedes to the Federation with the intent that the various authorities of the Federation shall exercise in relation to his State the functions vested in them by the Act, with the important provision "by virtue of his Instrument of Accession, but subject always to the terms thereof and for the purposes only of the Federation."

Clause 2 is a statutory clause required by Section 6.-(1) (*b*). In it, the Ruler assumes the obligation that due effect is given within his State to the provisions of the Act with, however, the proviso "so far as they are applicable therein by virtue of his Instrument of Accession."

Clause 3 is a statutory clause, with an important addition. The first paragraph is required by Section 6.-(2). In this paragraph, the Ruler refers to a Schedule called the First Schedule in which he specifies the matters with respect to which the Federal Legislature may make laws for his State, and also states the limitations to which the Federal Legislative power and the exercise of the Federal Executive authority are subject. Further reference to this Schedule is made later in this Report. This Schedule has not been drafted by the Government.

The second paragraph in clause 3 provides that when the Legislative power is limited, the Executive authority is likewise limited to the same extent.

The additional paragraph required in this clause is discussed later in this Report.

Clause 4 is a statutory clause referring to the Second Schedule and giving details required by Section 147.-(7). The Government has sent each State a table intended as a basis, subject to corrections, for this Schedule.

Clause 5, which was proposed by counsel for Indian Rulers, provides that references in the Instrument to laws of the Federal Legislature include ordinances, acts and laws of the Governor-General under Sections 42 to 45 of the Act, inclusive, thereby imposing on the Governor-General the same limitations as the Ruler by his Instrument imposes on the Federal Legislature.

Clause 6 provides that nothing in the Instrument affects the Ruler's sovereignty and the exercise of any his powers, authority and rights in and over his State. This clause is not in the form recognized by counsel, and the amendment required is discussed later in this Report.

Clause 7. The first paragraph which was proposed by counsel for Indian Rulers, provides that Parliament has no jurisdiction over a State or its Ruler in any respect.

The second paragraph is a statutory clause required by Section 6. - (5) providing that the Sections of the Act which relate to British India may be amended by Parliament, but no such amendment shall, unless it is accepted by the Ruler, extend the functions which by virtue of this Instrument are exercisable by His Majesty, or any Federal Authority, in relation to the Indian States.

Clause 8 provides that the Schedules form an integral part of the Instrument.

Clause 9. provides that the Instrument shall be binding from the date when it is accepted by His Majesty and, pursuant to Section 6. - (1) (b), that it shall be null and void unless the Federation is established before a date left blank as the date has not yet been fixed.

Clause 10. provides that the Instrument shall be binding upon the Ruler, his heirs and successors.

The Instrument also contains "additional paragraphs for insertion in proper cases".

A. Is a reference to administrative agreements to be set out in a Schedule. The form has not yet been furnished by the Government of India.

B. Provides for the exclusion of the Sections concerning water supplies as authorized by Section 134.

C. Provides for the designation of excluded areas as required by Section 294. - (1) (a) of the Act.

A further "additional paragraph to be lettered "D", proposed in this Report, is discussed later.

This summary shows that the Instrument of Accession which has been sent to the Rulers of Indian States by His Excellency the Viceroy is incomplete as it does not contain all the clauses essential to safeguard the interests of the Rulers,

The Instrument of Accession should contain the amendment and additional clauses proposed in this Report.

(a) **Essential Amendment.**

Throughout the discussions which led to the enactment of the Government of India Act, 1935, it was understood that all powers, rights and jurisdiction of the Ruler, which were not expressly delegated to the Federation, are reserved to the Ruler. The clause reads as follows :—

> "Nothing in this Instrument affects the continuance of my sovereignty in and over this State, and subject to the express terms of this Instrument and of any Federal Law made by this State by virtue thereof, all powers, authority and rights in and

over this State, and the exercise thereof, are reserved to the Ruler of this State".

In the Government of India draft Instrument of Accession, this clause reads :—

> "Nothing in this Instrument affects the continuance of my sovereignty in and over this State or, save as provided by this Instrument or by any Law of the Federal Legislature, made in accordance with the terms there f the exercise of any of my powers, authority and rights in and over this State".

The word "or" is used instead of the word "and"; the reference to powers, authority and rights has been limited to "the exercise" thereof; and the word "reserved" has been omitted.

There is a vital distinction between the words "affect the exercise of powers", and the words "all powers are reserved". Should the Federal Court be called upon to determine the question, if the word "reserved" is in the Instrument, its only question would be "has the power been delegated to the Federation"? If not, then it is a power of the Ruler because all other powers are "reserved" to him. If the words "affect the exercise of powers" are used instead of "reserved", the court would make the inquiry "was the exercise of a power affected" The correct principle is that the Ruler is the source of all powers whether he is exercising them at the time or not. All powers, not delegated, are inherent in him - present and future. He reserves to himself all powers, rights and jurisdiction excepting such as he has delegated. The distinction is fundamental.

It is of vital importance to the Rulers that the Instrument of Accession should provide that all powers, rights and jurisdiction, which are not expressly delegated to the Federation, are reserved to the Rulers. The amendment of Section (6) of the Government draft is requested to effect such reservation.

(b) **Proposed Additional Clauses.**

There is to be a division between the matters which are transferred to the Federation and may, therefore, be called Federal matters, and the relations which remain with the Crown pursuant to existing treaties, sanads, grants and agreements. In order that there may not be any confusion and that the Ruler may not be subject to two jurisdictions, it is essential that in Federal matters the Federal Authority should have exclusive jurisdiction without interference by any other Authority, and that the relations with the Crown should, on the other hand, be continued free from any interference by the Federal Authorities. For this purpose, two additional clauses should be inserted in the Instrument of Accession, reading as follows :—

1. "Nothing in this Instrument shall affect my rights and obligations in relation to the Crown with respect to any matter not within the functions exercisable by, or on behalf

of, the Federation by virtue of this Instrument, and no Federal Authority shall have jurisdiction with respect to such rights and obligations".

2. "All functions exercisable by any Federal Authority in relation to this State by virtue of clause (I) of this Instrument, shall be exercised exclusively by a Federal Authority, except in so far as the same are exercisable by the Ruler of this State, the same may be exercised by him".

The exception indicated is to preserve the concurrent jurisdiction of a Ruler as authorized by Section 8. - (2) of the Act.

The first of the proposed clauses makes it clear that the Federation may not, in the administration of Federal affairs, encroach upon the rights of the Ruler, and protects the Ruler against interference by the Federation in matters covered by treaties or other engagements with the Crown which are not within the Federal sphere. It provides affirmatively that no Federal Authority (which includes the Federal Court) has jurisdiction with respect to the rights and obligations of the Ruler outside the Federal sphere as established by his treaties and engagements with the Crown.

The second clause provides against a double jurisdiction in Federal matters, establishing the fundamental principle that with respect to the matters that the Ruler accedes as Federal, the authority and jurisdiction shall be exclusively that of the Federation, and protects the Ruler, in his relations with the Federation, from interference by any other Agent.

These two clauses would make it clear that the Ruler is not subject, with respect to the same matter, to two authorities, namely, the Officers of the Crown and of the Federation, but that each shall have exclusive jurisdiction in his own sphere.

Clause 3 of the Government draft Instrument provides, pursuant to Section 6.-(2) of the Act, for the specification by the Ruler in a Schedule to be annexed to the Instrument, of the matters with respect to which the Federal Legislature may make laws for his State, together with the limitations of Legislative power and Executive authority. There should be added a second paragraph reading as follows :—

3. "The Federal Legislature shall not have power to make laws for this State save with respect to the matters so specified and subject to such limitations".

This paragraph should be inserted as a safeguard against additional authority being implied from any of the provisions of the Act which may be applicable to Indian States. It makes it perfectly clear that the Ruler limits the power of the Federal Legislature to the matters which he expressly specifies, annexed to his Instrument of Accession, and thereby prohibits any taxation or other legislative measure not expressly authorized.

There is a further additional clause appropriate for use in a few States, which should be added to the "Additional paragraphs for insertion in proper cases" of the Government draft as follows :—

4. "I have set out in the.....Schedule to this Instrument certain rights and privileges appertaining to me and my State, and nothing in this Instrument is intended or shall be deemed to affect those rights and privileges, or any of them, or to entitle any Federal Authority in the exercise, or purported exercise, of its functions, whether within or without the territories of my State, to act in any way in dercgation or contravention of any of such rights and privileges".

The purpose of this Clause is to provide a Schedule in which the Ruler may, by reservation, protect any personal rights, and also rights which he enjoys outside his State. It would only apply to such a privilege or right which could not be reserved by the limitations set forth in the First Schedule annexed to the Instrument which applies only to laws for the State. The statement of such personal and extra-territorial rights in the Fourth Schedule would be of value to the Governor-General in preventing Federal legislation which would interfere with such an existing right now enjoyed by the Ruler.

There is an omission in the Act which requires correction either by an amendment of the Act or by the insertion of proposed clause, numbered 5 below, with respect to the appointment of Representatives in the Council and Federal Assembly, and the filling of vacancies. Section 18.-(3) of the Act provides that the Representatives shall be chosen in accordance with the provisions contained in the First Schedule to the Act. The First Schedule fails to specifically state that the Representatives are to be appointed by the Rulers, and sub-section 14, Part 2, provides that in case His Majesty in Council does not, the Governor-General may, in his discretion, make rules with respect to the filling of casual vacancies in seats. It is obvious that vacancies should be filled by the Rulers making the original appointments. To cure this omission, the following clause has been suggested:—

5. "All appointments of Representatives of this State to the Council of State and to the Federal Assembly shall be made by the Ruler of this State, and such Representatives may be nominated in such manner as he may prescribe. Any vacancy due to death, resignation or other cause shall be filled by the Ruler of the State".

It would, however, be more appropriate to correct the omission by an amendment of the Act as follows:—

Add to Section 18.-(3) of the Act the following:—

"(*a*) The Representatives of Indian States in the Council of State and in the Federal Assembly shall be appointed by the Ruler or Rulers of the States entitled to Representatives and may be nominated in such manner as the Ruler or Rulers may prescribe. Any vacancy due to death, resignation or other cause, shall be filled by the Ruler or Rulers entitled to make the appointment".

B. WITH RESPECT TO THE SPECIFICATION AND LIMITATION OF ITEMS IN THE FEDERAL LEGISLATIVE LIST (SEVENTH SCHEDULE OF THE ACT).

Annexed to the Government of India Act is a list of subjects concerning which the Federal Legislature is authorized to make laws, which is known as "List 1" in the Seventh Schedule.

Pursuant to Section 6.-(2) of Act, the Ruler must specify the matters which he accepts in this List as applicable to his State. Although the Ruler may specify the items which are accepted by him, his selection must be such as is acceptable to His Majesty.

In order that there may be a uniform body of Legislative power requisite to enable the Federation to function for India, the items specified as accepted should be the same in all Instruments of Accession subject, however, to certain limitations. The Government has indicated that it will expect the States to accept the first 47 items, and item No. 59. Any State may, however, if it desires, accept additional items.

The Ruler may, in accepting these items, do so with limitations. These limitations are of two kinds:—

(*a*) **General or standard limitations** with respect to Federal legislative power and executive authority, and general limitations with respect to the items in the List. These limitations are called *general* because they will be the same in all the Instruments of Accession.

(*b*) **Special limitations or reservations** which will not be the same in all the Instruments, but which will preserve the existing rights of individual States, as for example where a State excludes from the Federal Authority its post office, or telephone or telegraph line, railroad or other matter, which is at present the property of the State, or any other existing privilege or right which it enjoys with respect to any of the items in the Federal Legislative List.

The Government has indicated that it will not grant to any State new or additional privileges, but that the status quo may be maintained by reserving to the States, by special limitations to their Instruments of Accession, any privileges which they at present enjoy. With respect to the matters which may be reserved by individual States, the Joint Committee on Indian Constitutional Reform, Vol. 1, Part 1, in its Report at page 87, says:—

> "A Ruler who desires in his own case to except or reserve subjects which appear in what we may perhaps describe as the Standard List of Federal subjects in relation to the States, ought to be invited to justify the exception or reservation before his accession is accepted by the Crown. We do not doubt that there are States which will be able to make out a good case for the exception or reservation of certain subjects, some by reason of existing treaty rights, others because they have long enjoyed special

privileges (as for example in connection with postal arrangements, and even currency or coinage) in matters which will henceforward be the concern of the Federation; but in our judgment it is important that deviations from the Standard List should be regarded in all cases exceptional and not be admitted as of course".

Each State will have to examine and prepare a statement of the matters which it desires to reserve by special limitations on the ground that under treaty, grant, other agreement, or established practice, it now enjoys such privileges.

It is understood that instead of referring to the existing treaties or other agreements, the rights claimed by the States under such agreements will be re-stated fully in the Schedules annexed to the Instrument of Accession which, when accepted, will constitute a new agreement with the Federation upon such subjects. It is not possible here to take up the special limitations of each State, but as it is proposed that the general or standard limitations shall apply to all States, the recommendations with respect to such general limitations of items in Seventh Schedule, are set forth in this Report. A note has also been made calling attention to the items with respect to which a State should consider whether it has any privileges or rights now enjoyed which it desires to reserve by a special limitation.

General Limitations Applicable to all States.

NOTE.—The following are the items in the Federal Legislative List (Seventh Schedule, List I) which, it is recommended, may be accepted by the Ruler as applicable to his State, together with proposed *general limitations* upon the power of the Federal Legislature, and also *general limitations with respect to each item where considered necessary.* The full text of the items, as found in the Federal Legislative List, is re-stated together with the proposed limitations which are in italics. Where nothing has been put in italics, the item is accepted as it stands subject, however, to the general limitations. These items and limitations must be specified by the Ruler in the First Schedule annexed to his Instrument of Accession.

First Schedule of the Instrument of Accession.

The First Schedule (referred to in clause 3 of the Government draft Instrument) will begin with the statement required by Section 6.-(2) of the Act, as follows:—

"I (here insert the name and title of the Ruler) of the State of (here insert name of the State) hereby specify the following matters which I accept as matters with respect to which the Federal Legislature may make laws for this State, and the limitations to which the power of the Federal Legislature to make laws for this State and the exercise of the executive authority of the Federation with respect to such laws in this State, are respectively subject".

Following this declaration, come the general limitations and the specification and limitation of items in Seventh Schedule.

General Limitations Restricting the Federal Legislative and Executive Powers.

The following general limitations are recommended.

(*a*) The Federal Legislature shall not levy or impose any tax or duty in or upon this State or provide for the payment of any contribution by this State which discriminates against this State.

(*b*) No land or other property shall be acquired in this State on behalf of His Majesty for any Federal purposes, or on behalf of the Federal Railway Authority, or any other Authority of the Federation, except with the consent of the Ruler of this State, and upon payment of just compensation.

(*c*) The Federal Agents, Officers and Representatives while engaged in the exercise of their functions in this State, shall be subject to, and observe, the laws and regulations of this State, not inconsistent with the due exercise of their Federal functions.

(*d*) All laws, rules and regulations of the Federation with respect to the matters specified in items numbered 7, 20, 24, 25, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 44, 45 and 46 shall be uniform throughout the Federation.

(*e*) The functions of the Federation with respect to the Central Intelligence Bureau in item 1, and European cemeteries in item 4, and with respect to all the matters specified in items numbered 14, 15, 17, 25 and 36, shall be exercised within this State only with the consent of the Ruler of this State.

The Items and Limitations.

Specification of the following items, with the limitation indicated, applicable to all States, is recommended :—

Item 1.

His Mejesty's naval, military and air forces borne on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment, *with the limitation that the words "attached to" are understood to mean mobilized and on active service or garrison duty outside the territories of this State;* central intelligence bureau; preventive detention in British India for reasons of State connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States.

Item 2.

Naval, military and air force works, *with the limitation that these works mean such works of His Majesty;* local self-government in canton-

ment areas (not being cantonment areas of Indian State troops), the regulation of house accommodation in such areas, and, within British India, the delimitation of such areas.

Item 3.

External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India *with the limitation that extradition herein mentioned does not include extradition between Indian States, and that any extradition laws with respect to extradition to or from the Provinces shall be reciprocal.*

Item 4.

Ecclesiastical affairs, including European cemeteries.

Item 5.

Currency, coinage and legal tender.

NOTE.—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 6.

Public debt of the Federation.

Item 7.

Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication, Post Office Savings Bank *with the limitation that this item does not apply to posts, telegraphs, telephones and other like forms of communication and Post Office Savings Bank wholly within, and the property of this State, nor prohibit the establishment by the Ruler in this State of wireless and broadcasting stations subject to such Federal rules and regulations, and the manufacture of apparatus therefor, and with the further limitation that no wireless or broadcasting station shall be established in this State without the consent of the Ruler of this State.*

NOTE.—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 8.

Federal Public Services and Federal Public Service Commission.

Item 9.

Federal pensions, that is to say, pensions payable by the Federation or out of Federal revenues.

Item 10.

Works, lands and buildings vested in, or in the possession of, His Majesty for the purposes of the Federation (not being naval, military or air force works), but, as regards property situate in a Province, subject

always to Provincial legislation, save in so far as Federal law otherwise provides, and, as regards property in a Federated State held by virtue of any lease or agreement with that State, subject to the terms of that lease or agreement.

Item 11.

The Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial, and any other similar institution controlled or financed by the Federation.

Item 12.

Federal agencies and institutes for the following purposes, that is to say, for research for professional or technical training, or for the promotion of special studies.

Item 13.

The Benares Hindu University and the Aligarh Muslim University.

Item 14.

The Survey of India, the Geological, Botanical and Zoological Surveys of India: Federal meteorological organisations.

Item 15.

Ancient and historical monuments: archaeological sites and remains *with the limitation that this item shall apply only to such monuments, sites and remains in this State as the Ruler of this State may designate.*

Item 16.

Census.

Item 17.

Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India, subjects of any Federated State, or British subjects domiciled in the United Kingdom; pilgrimages to places beyond India.

Item 18.

Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.

Item 19.

Import and export across customs frontiers as defined by the Federal Government.

NOTE.—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 20.

Federal railways: the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares,

station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers *with the limitation that the construction or alteration of a railway shall not be authorized or undertaken in this State without the consent of the Ruler of this State.*

NOTE.—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 21.

Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.

Item 22.

Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.

Item 23.

Fishing and fisheries beyond territorial waters.

Item 24.

Aircraft and air navigation; the provision of aerodromes regulation and organisation of air traffic and of aerodromes, *with the limitation that the item air navigation shall not apply to such navigation between two points within this State, and that no aerodrome or buildings and structures connected with air navigation shall be established within this State, or any land or water be used for such navigation, except with the consent of the Ruler of this State, and with the further limitation that the Federation shall not have the power to prohibit the designation by this State of areas as prohibited or restricted areas and the right to develop aviation and to establish aerodromes, and manufacture aircraft and aircraft equipment within this State.*

Item 25.

Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.

Item 26.

Carriage of passengers and goods by sea or by air, *with the limitation that the Federal laws, with respect to this item shall be uniform throughout the units of the Federation and that subject thereto this item shall not apply to carriage of passengers and goods wholly within this State.*

Item 27.

Copyright, inventions, designs, trademarks and merchandise marks.

Item 28.

Cheques, bills of exchange, promissory notes and other like instruments.

Item 29.

Arms; firearms; ammunition, *with the limitation that these items shall not apply with respect to the sale and possession thereof within this State, nor to the manufacture of ammunition for the armed forces and police of this State, of firearms other than firearms of precision and prohibited bores, nor of swords, kirpans or other similar weapons, the employment of which does not necessitate the use of ammunition, nor to the supply of arms and firearms and ammunition for the armed forces and police of this State as may from time to time be agreed upon between the Ruler of this State and His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States.*

Item 30.

Explosives, *with the limitation that the Federal laws, rules and regulations with respect to this item shall be limited to safety in the use thereof and transport between units of the Federation.*

Item 31.

Opium, so far as regards cultivation and manufacture, or sale for export.

NOTE.—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 32.

Petroleum and other liquids and substances declared by Federal law to be dangerously inflammable, so far as regards possession, storage and transport, *with the limitation that the Federal laws, rules and regulations with respect to this item shall be limited to the safety in the possession and storage thereof and in the transport between units of the Federation.*

Item 33.

Corporations, that is to say, the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Federated State and carrying on business only within that State or co-operative societies, and of corporations, whether trading or not, with objects not confined to one unit, *with the limitation that subject to any corporation law enacted by the Federal Legislature, applicable to all the units of the Federation, this item shall not apply to the incorporation, regulation and winding-up of corporations operating solely within this State, and with the further limitation that there shall be no limitation of the right of this State to exclude any corporations from carrying on business in this State, or to impose conditions on its carrying on such business.*

Item 34.

Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest, *with the limitation that the power of the Federal Legislature to make laws for this State with respect to development of industries shall be limited to providing for subsidies and cesses, and national institutions for furthering the development of industries by research, education, or propaganda, not being institutions empowered to carry on or control an industry, and with the further limitation that the Federation shall not have power to compel the operation or development, or to close down or restrict the operation of any industry in this State, or to make laws for this State affecting the provision by this State of subsidies and cessess for industries carried on within this State, nor to restrict the liberty of this State to develop in any way industries within this State.*

Item 35.

Regulation of labour and safety in mines and oilfields, *with the limitation that this item is confined to the regulation of the safety of labour in mines and oilfields.*

Item 36.

Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal law to be expedient in the public interest, *with the limitation that no Federal law, rule or regulation made pursuant to this item shall compel the operation, or development or close down, or restrict the operation of any mine, oilfield or mineral works in this State, nor restrict the liberty of this State in any way to develop such industries.*

Item 37.

The law of insurance, except as regards insurance undertaken by a Federated State, and the regulation of the conduct of insurance business, except as respects business undertaken by a Federated State; Government insurance, except so far as undertaken by a Federated State, or, by virtue of any entry in the Provincial Legislative List or the Concurrent Legislative List, by a Province.

Item 38.

Banking, that is to say, the conduct of banking business by corporation other than corporations owned or controlled by a Federated State and carrying on business only within that State, *with the limitation that subject to any banking law enacted by the Federal Legislature applicable to all the units of the Federation, this item shall not apply to the incorporation, regulation and winding-up of banks conducting banking business solely within this State.*

Item 39.

Extension of the powers and jurisdiction of members of a police force belonging to any part of British India to any area in another

Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner, as the case may be; extension of the powers and jurisdiction of members of a police force belonging to any unit, to railway areas outside that unit.

Item 40.

Elections to the Federal Legislature, subject to the provisions of this Act and of any Order in Council made thereunder.

Item 41.

The salaries of the Federal Ministers, of the President and Vice-President of the Council of State and of the Speaker and Deputy Speaker of the Federal Assembly; the salaries, allowances and privileges of the members of the Federal Legislature; and, to such extent as is expressly authorised by Part II of this Act, the punishment of persons who refuse to give evidence or produce documents before Committee of the Legislature, *with the limitation that the persons herein referred to shall not include the Ruler of this State, his consorts and the members of his Family, his Ministers and officers, and that the documents herein referred to shall not include documents declared by the Ruler of this State to be confidential documents.*

Item 42.

Offences against laws with respect to any of the matters in this list.

Item 43.

Inquiries and statistics for the purposes of any of the matters in this list.

Item 44.

Duties of customs, including export duties, *with the limitation that no customs duties shall be imposed upon goods or any articles imported for the personal use of the Ruler of this State or the members of his family, or for the Civil and Military services of this State.*

NOTE—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 45.

Duties of excise on tobacco and other goods manufactured or produced in India except,

(*a*) alcoholic liquors for human consumption;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;

(*c*) Medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (*b*) of this entry.

with the limitation that such duties of excise shall only be levied upon goods upon which Federal customs duties are imposed for the purpose of protecting

such goods against foreign competiton, or with respect to which such protection has become unnecessary, and with the further limitation that no Federal Law, or Executive Act shall prohibit or restrict the right of this State to levy and retain excise duties now levied by this State, or to receive and retain its share of excise duties now collected by the British Indian Government pursuant to existing agreements, and with the further limitation that there shall be no prohibition against this Stute collecting and retaining any excise duties upon any goods over and above the excise duties imposed upon such goods by the Federation.

Item 46.

Corporation tax.

Item 47.

Salt.

NOTE.—A State that now enjoys any right with respect to any of the matters in this item, and which desires to continue to enjoy the same free from Federal control, must reserve it by a special limitation.

Item 59.

Fees in respect of any of the matters in this list, but not including fees taken in any Court.

In addition to the above items, there is no objection to the acceptance also of the following items :—

Item 51.

Establishment of standards of weight.

Item 52.

Ranchi European Mental Hospital.

C. MATTERS NOT INCLUDED IN THE INSTRUMENT OF ACCESSION TO BE OTHERWISE PROVIDED FOR.

There are a number of matters which it was not considered appropriate to include in the General Clauses or in the Schedules to the Instrument of Accession, but which should otherwise be provided for. These are :—

1. **Royal Proclamation.**

Treaties, sanads, grants and agreements with the Crown, in so far as the matters therein contained have not been taken over by the Federation, should be re-affirmed by a Royal Proclamation.

2. **Instrument of Instructions.**

Certain clauses which were considered inappropriate in the Instrument of Accession, it is suggested, should be contained in the Instrument of Instructions to the Governor-General.

By Section 13.-(1) of the Act it is provided that the Secretary of State shall lay before Parliament an Instrument of Instructions which it

is proposed to recommend to His Majesty to issue to the Governor-General.

The following suggestions are made as to Clauses in the Instrument of Instructions:—

(*a*) **When Surcharges may be Imposed.**

"No surcharge shall be imposed, nor shall any duties, taxes or excises be increased, by any surcharge for Federal purposes, nor equivalent contribution assessed in this State during the first ten years after the establishment of the Federation, unless the Governor-General shall by proclamation declare that a State of emergency exists after all economies proposed by him had been effected, the resources of indirect taxation open to the Federation exhausted, and all return of income tax to the Provinces suspended",

(*b*) **The preservation of the privileges and immunities now enjoyed by the Rulers.**

"That Section 12. - (1) (g) of the Act shall be interpretted by the Governor-General to include the maintenance of the existing rights, privileges and immunities of the Rulers of Federated States, their consorts and members of their Families.

(*c*) **Governor-General to confer with Ruler with respect to Orders and Rules made pursuant to Schedule I, Part II, of the Act.**

"Before any order, rule or regulation authorised by Schedule I, Part II, of the Act is promulgated or made, the Governor-General shall consult the Ruler of the State affected thereby with respect to the same".

3. **Suggestions concerning the Federal Finance.**

With respect to Finance, attention is called to the letter dated September 27th, 1936, addressed on that subject by the Right Hon'ble Sir Akbar Hydari on behalf of the Ministers' Committee, to the Hon'ble Sir Bertrand Glancy - Annexure VI of the Report of the Sub-Committee on the Instrument of Accession.

Memorandum on
Federal Finance
by Hr Mamm Subedar
Chamber of Princes
1936-37

Given to Professor
V. L. D'Souza
24/4/45

C 75 1/one

CB 810.

Ballabrooie,
Bangalore.
17th November 1936

DEWAN'S OFFICE
1 NOV. 1936
No. 1445

Dear Mr. Kesaviengar,

I am desired to send herewith for favour of disposal circular letter No. 32, dated 11th instant, received from His Highness the Chancellor of the Chamber of Princes regarding retrocession of Jurisdiction over railway lines and assessment of compensation in respect of tramways where new railways are constructed.

For perusal.

Yours sincerely,

Dewan)

18/11

18-11-36 19/11

CS.

Circular No.32.

Council House,
New Delhi.
11th November, 1936.

Subjects:- 1. Question of the application of principles regarding assessment of compensation arrived at in respect of tramways to cases for compensation when new Railways are constructed.

2. Retrocession of jurisdiction over Railway lands.

Your Highness,

In continuation of my/Secretary's circular letter No.15 dated the 11th September, 1936 on the subjects noted above, I write to inform Your Highness that both these matters were considered at the informal meeting of the Standing Committee of Princes held in Bombay last week; and in view of the coming constitutional changes, the Standing Committee were of opinion that it was in the best interests of the States if these two matters were finally considered and settled before their entry into Federation.

I shall, therefore, feel grateful if Your Highness is pleased to let me have the views of your Government on the two questions as early as possible, so that the matter may be considered in its entirety by the Standing Committee and they may be able to lend the weight of their support for an equitable settlement of the two questions.

Yours sincerely,

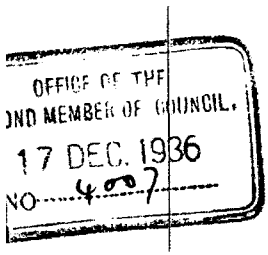
UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

Submitted

C/S 863

A printed copy of the letter d 2.11.36 addressed to the Political Secretary and of its enclosures is put up herewith.



CJA 16/12/36) a C/S 2 may kindly be retained by the member.

2nd member)

MMS 17.12.36

Seen. Thanks.

MM 18/12/36.

MMS 18/12

C.821/one

C.S. 86 A

C.S. 55-36-3

Bangalore.

26th November 1936

DEWAN'S OFFICE
27 NOV. 1936
No. 1622

OFFICE OF THE
SECOND MEMBER OF COUNCIL.
14 DEC. 1936
NO. 3841

Dear Mr. Kesaviengar,

I am desired to forward herewith letter dated 2nd instant together with its enclosures on the subject of amendments and additions to the draft Instrument of Accession received from His Highness the Chancellor of the Chamber of Princes.

Yours sincerely,

Secretary

Secretary

Dewan
1st member
2nd member

MS 27.11.36

C.B.
Please note instructions
given by Govt. Copies have
been got printed.
Kindly send Secretary
a copy & return
MS 1/12

(We may get some copies to be of the printed memoranda on foreign subject)

MS 27-11-36

MM 15/12/36

MS 30/11

MS 1/12

Tajmahal Hotel,
Bombay.
2nd November, 1936.

Your Highness,

The Conference of Ministers as well as the General Conference of Princes and Ministers concluded their labours on the 31st October, 1936. Your Highness will be glad to know that the object with which these Conferences were convened was successfully achieved.

The General Conference of Princes and Ministers passed several resolutions in connection with which a letter has been addressed to Sir Bertrand Glancy, a copy of which along with its enclosures, is being forwarded to Your Highness herewith.

The detailed proceedings will take time to be ready and will be sent to Your Highness in due course. In the meanwhile in view of the visit of His Excellency the Viceroy's representatives, the enclosed literature is being circulated in the hope that it may be of real use to Your Highness at the time of the coming discussions.

I hope this finds Your Highness in the enjoyment of excellent health.

Yours Sincerely,

UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

Tajmahal Hotel,
Bombay.
2nd November, 1936.

Your Highness,

In pursuance of Resolution No.3 (of which I enclose a copy) passed by the Conference of Princes held at the Town Hall, Bombay, on the 30th October 1936, I have to state that two representatives from your group have to be selected at an early date to work on the Constitutional Committee, so that the work of the Committee may not suffer.

A list of Ministers already on the Committee is given in the enclosure to this letter.

There are two possible ways for getting these Ministers selected. Firstly, where the group States are well organised they may have consultations between them and send the selected names to me. Where, however, that is not possible, it is suggested that each Ruler may send two names of his choice. Out of the Ministers so recommended, the two Ministers who secure the largestmeasure of support will be taken to have been nominated.

In either case, it is necessary that a reply to this letter reaches my office, New Delhi, by the 15th November, 1936 after which the Committee will start its work without waiting for the nominations.

Yours sincerely,

UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

Copy of Resolution No.3.

Resolved that a Committee may be constituted consisting of the following for the purpose indicated below:-

Chairman

His Highness the Maharaja Saheb of Patiala

Members.

1. His Highness the Chancellor
2. His Highness of Bikaner
3. His Highness of Dewas 2
4. His Highness of Panna
5. His Highness of Rampur
6. H.H. the Yuvraj of Limbdi

&

7. The Rt. Hon'ble Sir Akbar Hydari
8. Mr. K.A.H. Abbasi of Bhopal
9. R.B., Pandit Amar Nath Attal of Jaipur
10. Sir S.M. Bapna of Indore
11. Sir Manubhai Mehta of Bikaner
12. Mr. K.C. Neogy of Mayurbhanj
13. Sardar K.M. Panikkar of Patiala
14. Sir Prabhashankar Pattani of Bhavnagar
15. D.B., D.A. Surve of Kolhapur
16. Rao Saheb Y.A. Thombare of Sangli
17. Sir Mirza Ismail of Mysore
18. Colonel E.J.D. Colvin of Kashmir
19. Sir V.T. Krishnamachari of Baroda
20. Sir C.P. Ramaswamy Iyer of Travancore
21. Sir Shanmukham Chetty of Cochin
22. Sir K.N. Haksar of Gwalior
23. Sir Liaqat Hyat Khan of Patiala
24. Sardar D.K. Sen of Mandi
25. Dewan Bahadur B.N. Zutshi of Rewa
26. Mr. B.H. Zaidi of Rampur
27. Mr. R.M. Pawar of Dewas 2
28. R.B., Kanwar Sain of Jodhpur
29. D.B., Pandit Dharam Narain of Udaipur
30. Pandit M.C. Sharma Secretary to H.H. the Chancellor
31. Khan Bahadur Nabibux Mohd Hussain of Bahawalpur
32. Mir Maqbool Mahmood of Sachin

and two members of each regional group.

1. To examine the provisions of the Government of India Act from the point of view of the States' entry into Federation.

2. Published reports of regional groups to be made available to this Committee.

3. The Committee to submit report to the Standing Committee of the Princes through His Highness the Chancellor by the end of January 1937.

Quorum of the Committee to be eleven.

STRICTLY CONFIDENTIAL.

LETTER DATED 2ND NOVEMBER, 1936, FROM HIS HIGHNESS THE CHANCELLOR OF THE CHAMBER OF PRINCES TO SIR BERTRAND GLANCY ON THE SUBJECT OF AMENDMENTS AND ADDITIONS TO THE DRAFT INSTRUMENT OF ACCESSION.

Copy of letter dated the 2nd November, 1936, from His Highness the Chancellor to the Hon'ble Sir Bertrand Glancy, K.C.I.E., C.S.I., Political Secretary to the Government of India, New Delhi.

An informal Conference of Princes and Ministers was held here under my Chairmanship on the 30th and 31st of October 1936. They considered the recommendations made by the Conference of Ministers which was held here on the 27th, 28th and 29th of October 1936, under the Chairmanship of Sir Prabhashankar D. Pattani.

2. The recommendations which are contained in the appended printed document are in two parts. The first part contains the proposed amendments and additions to the Draft Instrument of Accession received from the Government of India. The second part contains the proposed limitations and reservations under each of the first 47 items in Schedule 1 to the Instrument of Accession.

3. In connection with these, the Conference passed several resolutions unanimously, copies of which are appended hereto. In pursuance of these resolutions I have to make the following requests to you.

4. The proposals contained in both parts of the printed report of the Ministers' Conference have been recommended unanimously by the Conference as forming the basis of discussions between the representatives of States and those of His Excellency the Viceroy.

5. The recommendations contained in Part I of the appended document may be considered as the unanimous decision of the Conference of Princes and Ministers. It is, therefore, requested that necessary steps may kindly be taken to have these recommendations incorporated in the standard form of the Instrument of Accession.

6. The Conference unanimously decided to approach His Excellency the Viceroy to consider the advisability of arranging that a general discussion may be held between His Excellency the Viceroy's nominees and the States' representatives regarding the general clauses, reservations and limitations at some convenient time about the dates of the next Session of the Chamber of Princes to be settled between His Excellency and myself.

7. Besides this general All-India discussion, facilities are sought to be provided for the special representatives of His Excellency the Viceroy now to tour the States to meet the Rulers and representatives of groups of States collectively where the States so desire.

8. It was further unanimously decided by the Conference that His Excellency the Viceroy may be approached kindly to extend the time, by which the States are required to send their proposals, to a fortnight after the next Session of the Chamber, so that the States may be able to take advantage of the Session for collective discussions before they finally send their proposals.

9. I request you on behalf of the Conference kindly to approach His Excellency the Viceroy with the requests made above with a view to obtaining his approval to them.

10. The Conference also appointed two Committees of Princes and Ministers for going more minutely into the questions of Federal finance and the legal implications of the Constitution and their reports will be available at the latest by the end of January 1937. They would be useful at the discussions that have been proposed to be held at the time of the next Session in para 8 above as some new points may be raised as a result of the recommendations of these Committees.

11. I may also note for your information that it was generally understood at the Conference that the discussions that are going to take place between the States collectively or individually and His Excellency's representatives are going to be for the purpose of clearing points of doubt and detail and nobody will be committed to anything thereby. The final proposals regarding their Instruments of Accession will be submitted by the States in due time.

12. Fuller proceedings of the Conference will be sent to you when they are ready.

Resolutions.

1. That as it is desirable that after meeting the representatives of H. E. the Viceroy, there should be another Conference of Princes to work out their proposals in final form, the Viceroy may be approached kindly to extend the time by which the States are required to send in their proposals to a fortnight after the next Session of the Chamber so that the States may take advantage of the occasion for collective discussions before they finally submit their proposals.

Proposed by His Highness the Nawab Saheb of Janjira.
Seconded by His Highness of Patiala.

Passed unanimously.

2. Resolved that a Committee may be constituted consisting of the following for the purpose of ascertaining financial implications of Federation :—

Chairman and Convener.

H. H. the Nawab Saheb of Bhopal.

Prince Members.

H. H. the Chancellor.
H. H. Maharaja Jam Saheb of Nawanagar.

Minister Members.

Sir Prabhashankar Pattani.
Sir Joseph Bhore (Bhopal).
Mr. Kaula (Jind).
Mr. Kotak (Janjira).

Experts.

Sir B. N. Mitra.
Mr. Manu Subedar.

Limit of expenses at the disposal of the Chairman, Rs. 15,000, which have been guaranteed by Princes present if funds are not available.

The Committee to send in their report to the Standing Committee of the Chamber of Princes through His Highness the Chancellor by the end of January.

Arrangements will be made to enable individual States to obtain advice from Financial Experts on their own cases.

3. Resolved that a Committee may be constituted consisting of the following for the purpose indicated below :—

Chairman.

His Highness the Maharaja Saheb of Patiala.

Members.

1. His Highness the Chancellor.
2. His Highness of Bikaner.
3. His Highness of Dewas 2.
4. His Highness of Panna.
5. His Highness of Rampur.
6. H. H. the Yuvaraj of Limbdi.

AND

7. The Rt. Hon'ble Sir Akbar Hydari.
8. Mr. K. A. H. Abbasi of Bhopal.
9. R. B. Pandit Amar Nath Attal of Jaipur.
10. Sir S. M. Bapna of Indore.
11. Sir Manubhai Mehta of Bikaner.
12. Mr. K. C. Neogy of Mayurbhanj.
13. Sardar K. M. Panikkar of Patiala.
14. Sir Prabhashankar Pattani of Bhavnagar.
15. D. B., D. A. Surve of Kolhapur.
16. Rao Saheb Y. A. Thombare of Sangli.
17. Sir Mirza Ismail of Mysore.
18. Colonel E. J. D. Colvin of Kashmir.
19. Sir V. T. Krishnamachari of Baroda.
20. Sir C. P. Ramaswamy Iyer of Travancore.
21. Sir Shanmukham Chetty of Cochin.
22. Sir K. N. Haksar of Gwalior.
23. Sir Liaqat Hyat Khan of Patiala.
24. Sardar D. K. Sen of Mandi.
25. Dewan Bahadur B. N. Zutshi of Rewa.
26. Mr. B. H. Zaidi of Rampur.
27. Mr. R. M. Pawar of Dewas 2.
28. R. B., Kanwar Sain of Jodhpur.
29. D. B., Pandit Dharam Narain of Udaipur.
30. Pandit M. C. Sharma, Secretary to H. H. the Chancellor.
31. *Khan Bahadur* Nabibux Mohamed Hussain of Bahawalpur.
32. Mir Maqbool Mahmood of Sachin,

and two members of each regional group.

(1) To examine the provisions of the Government of India Act from the point of view of the States' entry into Federation.

(2) Published reports of regional groups to be made available to this Committee.

(3) The Committee to submit report to the Standing Committee of the Princes through His Highness the Chancellor by the end of January 1937.

Quorum of the Committee to be eleven.

4. This Conference of Princes appreciates the work done by the Ministers in examining the reservations appertaining to the Federal List items of Schedule VII and in framing general reservations to the draft Instrument of Accession and recommends that these may form the basis of discussions with His Excellency the Viceroy's representatives.

Proposed by His Highness of Dewas 2.
Seconded by His Highness of Panna.

Passed unanimously.

5. This Conference recommends that His Excellency the Viceroy be approached to consider the advisability of arranging that the general clauses, reservations and limitations, be considered between the nominees of His Excellency the Viceroy and representatives of States at some convenient time about the dates of the next Session of the Chamber of Princes to be settled between His Excellency the Viceroy and His Highness the Chancellor without prejudice to the programme and procedure of the Special Representatives' visits to the States.

Proposed by His Highness of Sachin.
Seconded by His Highness of Mandi.

Passed unanimously.

6. This Conference of Rulers and representatives of the States recommends to His Excellency the Viceroy that where the groups of States concerned so desire facilities should be provided for the special representatives to meet the Rulers and representatives of the States concerned collectively.

Proposed by His Highness of Nawanagar.
Seconded by His Highness of Patiala.

Passed unanimously.

7. This Conference of Rulers and representatives of the States adopts the recommendations contained in Part I of the Report of the Ministers' Conference for incorporation in the draft Instrument of Accession received from the Government of India.

Passed unanimously.

Amendments and additions to the Draft Instrument of Accession received from the Government of India.

The following Clause is recommended to be substituted for Clause 6 of the Draft received from the Government of India.

1. Nothing in this Instrument affects my Sovereignty in and over this State and save as otherwise herein provided all powers, authority and rights of the Ruler in and over this State and the exercise thereof are reserved to the Ruler of this State.

The following Clauses are recommended for being added in the Draft Instrument of Accession received from the Government of India.

2. All functions exercisable by any Federal authority in relation to this State by virtue of Clause 1 of this Instrument shall be exercised exclusively by a Federal authority except as, in so far as the same are exercisable by the Ruler of this State, the same may be exercised by him.

3. Nothing in this Instrument shall affect my rights and obligations in relation to the Crown with respect to any matter not within the functions exercisable by, or on behalf of, the Federation by virtue of this Instrument, and no Federal authority shall have jurisdiction with respect to such rights and obligations.

4. The Federal Legislature shall not have power to make laws for this State save with respect to the matter so specified and subject to the said limitations.

5. I have set out in the .... Schedule to this Instrument certain rights and privileges appertaining to me and my State and nothing in this Instrument is intended or shall be deemed to affect those rights and privileges or any of them or to entitle any Federal or Provincial authority in the exercise or purported exercise of its functions whether within or without the territories of my State to act in any way in derogation or contravention of any of such rights and privileges.

6. (1) All appointments of representatives of this State to the Council of State and to the Federal Assembly shall be made by the Ruler of the State and such representatives may be nominated in such manner as he may prescribe. Any vacancy due to death, resignation or other cause shall be filled by the Ruler of the State.

(2) In case a Ruler desires to replace his representative in either House of the Federal Legislature the Ruler may nominate another person in his stead for the remaining period of the term.

7. No land or other property shall be acquired in the territories of the Ruler of this State on behalf of His Majesty for any Federal purposes, or on behalf of the Federal Railway Authority, or any other Authorities of the Federation except with the consent of the Ruler of this State and on such terms as may be settled with the Ruler.

8. Nothing in this Instrument is intended or shall be deemed to affect the immunity of the Ruler from processes of law and from giving evidence before the committees of the Legislature.

9. The Federation shall not have the power to levy by any Legislative or Executive act any discriminatory or retaliatory duty, tax or cess which will adversely affect the economic interest of the State; and similarly the distribution of bounties or subsidies by the Federation shall not be such as to discriminate against the State in favour of any other unit of the Federation.

10. All property of which there is no rightful owner will under the laws of the State by escheat or lapse or as *bona vacantia* accrue to the Ruler of the State.

It is suggested that the following Clause be inserted as a general reservation in the Schedule of Federal subjects.

The Federal Agents, Officers and Representatives, while within the limits of this State shall be subject to, and observe the laws and regulations of this State, not inconsistent with the due exercise of their Federal functions.

Schedule I to the Instrument of Accession.

[Refer to the Items of the Federal Legislative List (7th Schedule to the Government of India Act, 1935.)]

Item No. 1.

His Majesty's Naval, Military and Air Forces borne on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or Military or Armed Police maintained by provincial Governments; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty's Naval, Military or Air Forces borne on the Indian establishment; central intelligence bureau; preventive detention in British India for reasons of State connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States.

Item No. 2.

Naval, Military and Air Force Works; local self-government in cantonment areas (not being cantonment areas of Indian State troops), the regulation of house accommodation in such areas, and, within British India, the delimitation of such areas.

Item No. 3.

External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.

Item No. 4.

Ecclesiastical affairs, including European cemeteries.

Item No. 5.

Currency, coinage and legal tender.

Item No. 1.

(1) The Federal Government should not send troops into the State except at the request of His Majesty's representative for the exercise of the Crown's functions in relation to the State or at the request of the Ruler in the case of internal disorder in the State.

(2) Conscription and compulsory military service in the State by the Federation should not be enforced except with the consent of the Ruler.

(3) It is understood that the words "attached to" as applied to the State troops mean "on mobilisation or on garrison duty."

(4) In consonance with the existing practice, in the event of employment of State troops outside the State territories they would continue to be subject to the rules of the Darbar for the purposes of discipline and interior economy.

(5) Concurrence of the Ruler will be necessary for holding manœuvres in the State.

(6) No function of the Central Intelligence Bureau shall be exercised in the State except with the consent of the Ruler of the State.

(7) It is suggested that the expression "Preventive detention in British India" may be defined.

Item No. 2.

The power of the Federal Legislature to make laws for the State with respect to Naval, Military and Air Force Works shall be limited to Naval, Military and Air Force Works appertaining to His Majesty's Forces and the Federal Legislature shall not have power to make laws providing for the establishment of such Naval, Military or Air Force Works in the State without the consent of the State or of depriving the State of the ownership of such Naval, Military or Air Force Works in the State.

Item No. 3.

The reference to extradition shall apply only to extradition to foreign countries and to parts of His Majesty's Dominions outside India and not to the surrender of criminals and accused persons by one unit of Federation to another or to and from a non-Federating State subject to any interstatal arrangements or agreements.

Item No. 4.

The power of the Federal Legislature to make laws for the State with respect to ecclesiastical affairs shall be limited to the provision of Christian Ministrations to members of His Majesty's Forces and others in the service of the Crown in India.

Item No. 5.

It is suggested that the States should make a reservation for the preservation of their existing rights regarding currency and coinage and legal tender. Each State should specify its own rights.

Item No. 6.

Public debts of the Federation.

Item No. 7.

Posts and telegraphs, inculding telephones, wireless, broadcasting, and other like forms of communication; Post Office Savings Bank.

Item No. 8.

Federal Public Services and Federal Public Service Commission.

Item No. 6.

This item which includes pre-Federation Debt is connected with the general financial settlement which is dealt with in Part III of Sir Akbar Hydari's Memorandum, and it was decided not to take it up here.

Item No. 7.

1. In establishing new Post Offices, in closing old ones and in the working and management of all Post Offices within this State, as well as in matters like the imposition of special conditions or enforcement of Mail Robbery Rules there shall be no discrimination against this State *vis-a-vis* any other unit of the Federation.

2. In spite of any Postal rules to the contrary the State reserves its right to make any arrangement it deems necessary for the exchange of official correspondence within its territory.

3. If a State desires that the Post Offices inside its territory should not carry on banking operations such operations shall not be so carried on.

4. The present position to be maintained, according to the following resolutions:—

(*a*) Government Resolution No. 524-I, *re*: Telephones in States, dated 18th October, 1923, as amended by Resolution No. F. 52-R/30 dated 19th June 1931.

(*b*) Government Resolution No. 242-I, *re*: Telegraph dated 6th December 1923.

(*c*) Government Resolution on Wireless communications in British India and Indian States, Memoranda on the Development of Wireless communications in British India and Indian States, dated 26th January 1922, by the Director of Wireless.

(*d*) Wireless telegraphy and telephony in Indian States. Summary of Chamber of Princes, 1924, circulated by Government Resolution on the same subject No. 496-I, dated 27th May 1926.

(*e*) Radio Broadcasting Resolution F. 178-R/30 dated 22nd February 1932.

5. It is suggested that the States should make a reservation for the preservation of their existing rights.

6. It is suggested that States requiring more equitable arrangements in regard to the supply of free service stamps for official correspondence may bear this point in view by way of special reservation.

Item No. 8.

This item requires more precise definition so as to exclude officers of the States doing Federal work from being regarded as belonging to the Federal Services.

Item No. 9.

Federal pensions, that is to say, pensions payable by the Federation or out of federal revenues.

Item No. 10.

Works, lands and buildings vested in, or in the possession of, His Majesty for the purposes of the Federation (not being Naval, Military or Air Force Works), but, as regards property situate in a Province, subject always to Provincial legislation, save in so far as Federal Law otherwise provides, and, as regards property in a Federated State held by virtue of any lease or agreement with that State, subject to the terms of that lease or agreement.

Item No. 11.

The Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial, and any similar institution controlled or financed by the Federation.

Item No. 12.

Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.

Item No. 13.

The Benares Hindu University and the Aligarh Muslim University.

Item No. 14.

The Survey of India, the Geological, Botanical and Zoological Surveys of India; Federal Meteorological organizations.

Item No. 15.

Ancient and historical monuments; archæological sites and remains.

Item No. 9.

No limitation is suggested.

Item No. 10.

Subject to the condition that Federation does not exercise governmental or jurisdictional rights on works, lands and buildings in its occupation in the State.

Item No. 11.

No limitation is suggested.

Item No. 12.

No limitation is suggested.

Item No. 13.

No limitation is suggested.

Item No. 14.

(1) The functions of the Federation with respect to any of the matters specified in this item shall be exercised within the State by the Federation only with the consent of the Ruler.

(2) Records of the surveys pertaining to the State which are submitted to the Federal Government shall be made available to this State if required.

(3) It is suggested that in the case of geological surveys at the time of giving consent, the Ruler may state that the report may be treated as confidential if he so desires.

Item No. 15.

The following limitations are suggested for those States who decide to federate for this subject :—

(1) The control of monuments, archæological sites and remains within the State will remain with the Ruler of the State.

(2) The Ruler shall designate what are the ancient and historical monuments, archæological sites and remains in this State.

(3) No finds shall be removed outside the State without the consent of the Ruler.

(4) The monuments handed over to Federal control shall not be diverted to any use other than that warrated by the nature of the monuments.

Item No. 16.

Census.

Item No. 17.

Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India, subjects of any Federated State, or British subjects domiciled in the United Kingdom; pilgrimages to places beyond India.

Item No. 18.

Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.

Item No. 19.

Import and export across customs frontiers as defined by the Federal Government.

Item No. 20.

Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.

Item No. 16.

Subject to statal census being made by State Agency.

Item No. 17.

1. The State would reserve the power of regulating the movements within the State of undesirable foreigners.

2. The admission of undesirable aliens inside the State territory should be subject to any representations that the State Government may have to make in this respect.

The State would reserve the power of expelling undesirable aliens from its borders.

3. The State should be at liberty to admit within it the entry of any alien for its own legitimate purposes.

4. Where the Federal Government exercises its authority under this item all the expenses incidental thereto connected with repatriation and otherwise should be borne by the Federal fisc.

5. The administration of the Federal Law relating to this item should be entrusted to the State.

Item No. 18.

Policy and Legislation Federal. Administration to remain with the State.

Item No. 19.

A Sub-Committee consisting of Sir P. Pattani, Bhavnagar; Sir S. Chetty, Cochin; R. B. Kanwar Sain, Jodhpur, and Col. Zorawar Singh, Panna, will draft reservations (appended hereto) on items Nos. 19 and 44.

Item No. 20.

The implications of the item are:—

(*a*) In regard to Federal railways the Federation will have all the jurisdiction and powers conferred by the Act.

(*b*) With regard to all railways other than minor railways the Federation will exercise jurisdiction only in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administration as carriers of things and passengers.

(*c*) With regard to minor railways the Federation will exercise jurisdiction only in respect of safety and responsibility as carriers of goods and passengers.

Attention is invited to Section 311 of the Act in which the words "Railways," "Federal Railway," "Indian State Railway" and "Minor Railway" are defined.

Particular attention is drawn to the definition of the term "Indian State Railway." The main point to be noted is that according to the definition contained in the Act in Indian State Railway owned by the State but managed on behalf of the State by a company like the M.S.M., S.I.R., etc., which is managing a Federal

railway will for the purpose of the Act be a Federal railway. Though in the ordinary sense such railways may be talked of as Indian State Railways because they are owned by the State, nevertheless under the definition contained in Section 311 such railways will not be Indian State Railways.

In view of this unless the States whose railways are managed by such companies make specific reservations their railway system will be considered Federal railways over which the Federation will have full jurisdiction. In this connection refer to Section 181 (2) of the Act. This section confers on the Federation unrestricted jurisdiction and powers over Federal railways including the right of renewing the contract for management, etc., with the result that it may continue to be always a Federal railway.

In view of the fact that the conditions under which the railways in the Indian States are owned and managed differ widely it is not possible to suggest uniform reservations which will be applicable to all States alike. It is however suggested that the individual States may consider the applicability of the following reservations to their cases :—

(1) The State should reserve the right of enjoying the entire income derived from its own railways where the railways are the property of the State.

(2) Where the railways of an Indian State are worked in accordance with the contract with a company the State must reserve the liberty of managing the railway by one of its own State departments or to make such arrangements for management as the State may desire at the termination of the existing contract. No Act of the Federal Legislature or the Federal Executive or the Federal Railway Authority should make it impossible for the State to exercise this power in an unrestricted manner. The powers conferred on the Federal Railway Authority by Section 181 (2) should not under any circumstances be used to the detriment of the State in making its own arrangement for the management of its railway system.

(3) The States may make a reservation that the civil and criminal jurisdiction over railway lands should be transferred to the State courts and that the policing of the railways should be entrusted to the State police ; in other words the States may ask for a retrocession to the States of all jurisdiction over railway lands.

(4) With reference to station and service terminal charges a reservation may be made that these charges may be levied by the Federation purely for railway purposes and that a terminal tax for any other purpose cannot be levied on the State railway.

(5) It is a point for consideration whether reservation should be made that no Federal railway shall be constructed within the territory of a State without the consent of the Ruler.

(6) The provisions of the Act relating to possible discrimination in rates, etc., seem to be adequate and no reservation seems to be necessary in this behalf.

Item No. 21.

Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.

Item No. 22.

Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port authorities therein.

Item No. 23.

Fishing and fisheries beyond territorial waters.

Item No. 24.

Aircraft and air navigation; the provision of aerodromes regulation and organisation of air traffic and of aerodromes.

Item No. 25.

Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

Item No. 21.

Policy and Legislation; Federal subject to existing rights of maritime States in conformity with existing practice. The Admiralty jurisdiction of the State will correspond with that of a British Indian Province.

Item No. 22.

The question of Federation does not arise, for the States that are in agreement with Government should retain their present position as customs ports under existing Treaties and Engagements.

Item No. 23.

Subject to existing rights.

Item No. 24.

The Hydari Committee recommendations which are as follows are adopted:—

1. The Ruler reserves to himself the right to establish and control aerodromes and air services within the State.

2. The Federal Legislature shall not have power to make laws for the State affecting the prohibition or restriction by the State of aircraft taking up or setting down passengers or goods in the State without its consent.

3. The Federal Legislature shall not have power to make laws for the State affecting the prohibition or restriction by the State of air navigation over areas from time to time declared by the State to be prohibited or restricted areas.

4. The Federal Legislature shall not have power to make laws for the State affecting the maintenance by the State of customs, aerodromes, or the enactment or execution by the State of laws requiring aircraft importing goods in the States to alight, be examined and pay duties at such aerodromes.

5. The Federal Legislature shall not have power to make laws for the State providing for the establishment of aerodromes in the State without the State's consent.

6. The Federal Legislature shall not have power to make laws for the State with respect to or prohibiting the manufacture of aircraft or parts of aircraft in the State.

7. It is suggested that administration of aerodromes under the control of the States may be reserved to the State under Section 125.

Item No. 25.

So far as this item concerns maritime States it is suggested that only Policy and Legislation should be Federal. The States administer this themselves and should continue to do so.

As regard aircraft. Beacons and other provisions for the safety of aircraft should be established in the State with the consent of the Ruler.

The Federal Legislature shall not have power to make laws for the State with respect to, or prohibiting the erection of lighthouses, manufacture of beacons or other provision for the safety of aircraft or parts of the lighthouses, beacons or such other provisions in the States.

Item No. 26.

Carriage of passengers and goods by sea or by air.

Item No. 27.

Copyright, inventions, designs, trade marks and merchandise marks.

Item No. 28.

Cheques, bills of exchange, promissory notes and other like instruments.

Item No. 29.

Arms; fire-arms; ammunition.

Item No. 30.

Explosives.

Item No. 31.

Opium, so far as regards cultivation and manufacture, or sale for export.

Item No. 32.

Petroleum and other liquids and substances declared by Federal Law to be dangerously inflammable, so far as regards possession, storage and transport.

Item No. 33.

Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Federated State and carrying on business only within that State or co-operative societies, and of corporations, whether trading or not, with objects not confined to one unit.

Item No. 26.

This was taken with Item No. 24.

Item No. 27.

The copyright, inventions, designs, trade marks and merchandise marks already registered in a State under the State laws should be deemed to have been registered under any Federal Law made applicable to the State.

Item No. 28.

Policy and Legislation Federal; administration to remain with the State. (Stamp Duty to remain with the State as the States do not federate for Items 57 and 59).

Item No. 29.

Federal for Policy and Legislation; administration with the State. The present position regarding the Rulers, the members of their families and high special officials to be maintained. Section 12, Clause (1), sub-clause (g) provides for protection of any Indian State and the rights and privileges of the Ruler thereof.

This clause should be adjusted according to the existing rights of individual States.

Item No. 30.

Federal for high explosives for Policy and Legislation; administration with the State as in the case of Provinces.

Item No. 31.

Federal; subject to existing agreements and conditions. The opium required for internal consumption in the State should not be subject to any excise duty by any Provincial Government.

Item No. 32.

Policy and Legislation Federal; subject to existing rights of the State. Administration to be with the State.

Item No. 33.

(1) Policy and Legislation only.

(2) The Federal Legislature shall not have power to make laws for the State affecting the imposition by the State of conditions subject to which a corporation (other than a corporation owned or controlled by the Federal Government) may carry on business within the State.

(3) There should be a reservation that in any Federal Law relating to corporations, in the event of winding up, debts due to the Crown as well as to the Ruler or Government of the State should rank equally in priority over other debts, and assets should be distributed *pro rata* in proportion to the amount of the debts so due. If debts are not due to both the Ruler and the Crown but only to one of them, the whole of such debt should rank in priority to every other debt.

It is suggested that the State should reserve the right of local administration.

Item No. 34.

Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest.

Item No. 35.

Regulation of labour and safety in mines and oil-fields.

Item No. 36.

Regulation of mines and oil-fields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal Law to be expedient in the public interest.

Item No. 37.

The law of insurance except as respects insurance undertaken by a Federated State, and the regulation of the conduct of insurance business, except as respects business undertaken by a Federated State; Government insurance, except so far as undertaken by a Federated State, or, by virtue of any entry in the Provincial Legislative List or the Concurrent Legislative List, by a Province.

Item No. 34.

It has been understood that this item was intended to cover subsidies, cesses and national institutions for furthering the development of industries but was not intended to touch agriculture or other subjects in the Provincial List or labour legislation or rationalisation. The following limitations would restrict this item to that definition :—

(1) The power of the Federal Legislature to make laws for the State with respect to development of industries shall be limited to providing for subsidies and cesses, and national institutions for furthering the development of industries by research, education or propaganda, not being institutions empowered to carry on or control an industry.

(2) The Federal Legislature shall not have power to make laws for the State affecting the provision by the State of subsidies and cesses for industries carried on within the State.

(3) The State must have unrestricted liberty to develop any industry within the State and no Federal Authority should have the right of either closing down such industries or restricting its operation in any manner.

Item No. 35.

It is suggested that the States should not federate for regulation of labour but only for legislation regarding safety in mines and oil-fields.

It is suggested that the States should reserve the right of local administration.

Item No. 36.

(1) It is suggested that the States should not federate for this item so far as the regulation of mines and oil-fields is concerned.

(2) With regard to the regulation of mineral development, to the extent to which such development under Federal control is declared by Federal law to be expedient in the public interests the States should only federate subject to the following limitations :—

(*a*) The power of the Federal Legislature to make laws for the State with respect to such mineral development shall be limited to providing for subsidies and cesses.

(*b*) The Federal Legislature shall not have power to make laws for the State affecting the provision by the State of subsidies and cesses for such mineral development within the State.

The State must have unrestricted liberty to develop any industry within the State and no Federal Authority should have the right of either closing down such industries or restricting its operation in any manner.

Item No. 37.

For Legislation only.

Item No. 38.

Banking, that is to say, the conduct of banking business by corporations other than corporations owned or controlled by a Federated State and carrying on business only within that State.

Item No. 39.

Extension of the powers and jurisdiction of members of a Police Force belonging to any part of British India to any area in another Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner, as the case may be; extension of the powers and jurisdiction of members of a Police Force belonging to any unit to railway areas outside that unit.

Item No. 40.

Elections to the Federal Legislature, subject to the provisions of this Act and of any Order in Council made thereunder.

Item No. 41.

The salaries of the Federal Ministers, of the President and Vice-President of the Council of State and of the Speaker and Deputy Speaker of the Federal Assembly; the salaries, allowances and privileges of the members of the Federal Legislature; and, to such extent as is expressly authorised by Part II of this Act, the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislature.

Item No. 42.

Offences against laws with respect to any of the matters in this list.

Item No. 43.

Inquiries and statistics for the purposes of any of the matters in this list.

Item No. 38.

For Legislation only.

Item No. 39.

For the last 2 lines with the consent of the unit concerned—reciprocity desirable.

Item No. 40.

No limitation is suggested.

Item No. 41.

The provisions of the Section 28 (4) should equally apply to the servants of a Federating State as well as to confidential matters.

Item No. 42.

Subject to the list of items States would accede to.

The Federal Legislature shall only have power to make laws for the State with respect to offences against laws which under the Instrument of Accession the Federal Legislature has power to make for the State.

Item No. 43.

Legislation Federal; administration reserved.

It is suggested that the States may federate for this item subject to the following limitations:—

(1) The Federal Legislature shall not have power to make laws for the State with respect to inquiries or statistics for the purpose of any matter with respect to which the Federal Legislature has not, under the Instrument of Accession, power to make laws for the State.

(2) The Federal Legislature shall not have power to make laws for the State affecting the making or holding of inquiries or the collection or publication of statistics by the State or in pursuance of any laws of the State.

(3) All inquiries to be in collaboration with the State.

Item No. 44.

Duties of customs, including export duties.

Item No. 45.

Duties of excise on tobacco and other goods manufactured or produced in India except—

(*a*) alcoholic liquors for human consumption;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;

(*c*) medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (*b*) of this entry.

Item No. 46.

Corporation Tax.

Item No. 47.

Salt.

Item No. 44.

This was taken with Item No. 19.

Item No. 45.

It is suggested that the States may federate for this item subject to the following limitations:—

(1) No excise duty shall be levied on agricultural (excluding tobacco) and dairy products.

(2) No future Federal excise duty will be levied unless the contervailing duties are levied on import of articles on which such excise duty is to be levied.

(3) That the revenue that the State is deriving from the excise or other equivalent duties such as export duty on articles of local production on which a future duty may be imposed may not be adversely affected and may be continued to be enjoyed by the State.

(4) That the revenue derived by the State from joining the pooling arrangement with the Government of India with regard to the excise on matches and mechanical lighters should remain unaffected as also the share of income received by the States for road development from the excise duty on petrol.

(5) That any new source of excise duty should not be such as the States already use for revenue and must be in respect of fresh Federal expenditure.

Item No. 46.

No limitations are suggested.

Item No. 47.

It is suggested that the States which receive compensation under the Salt agreement should press that it should not be taken into account for purposes of Section 147 (6).

Items Nos. 19 and 44.

Item No. 19.—Imports and Exports across the Customs Frontiers as defined by the Federal Government.

Item No. 44.—Duties of Customs including Export Duties.

The implication of having these two items under separate headings requires elucidation. Item No. 44 refers specifically to duties of Customs. If this item refers only to the levy of duties even then it must comprise powers of legislation for the levying of such duties and the administrative machinery for that purpose. It is not known whether the duties of customs under Item 44 are intended to refer only to maritime customs or whether land customs also are included under this heading.

The position relating to maritime States and States which at present levy land customs in the form of export duties, etc., are different. In view of the overlapping nature of Items 19 and 44 the best course seems to be to make common and comprehensive reservations under both of these items by the maritime States and also by the inland States.

The following reservations appear to be comprehensive enough and may cover all possible cases :—

(1) All the maritime States which have got customs rights under Treaties and Engagements may make a reservation that all these rights should remain intact. These Treaties and Engagements may contain provisions relating to the sharing of customs duties, the civil and criminal administrative jurisdiction of the port areas and all other matters incidental thereto. In some cases the rights secured are found in a number of documents. The best course would be to consolidate in one document all the rights secured by these States and to incorporate the consolidated document as a Schedule to the Instrument of Accession. It would be specifically mentioned under Items 19 and 44 that all rights and privileges secured by the State under the various Treaties and Engagements and contained in the Schedule attached to the Instrument of Accession will be reserved to the State.

(2) With regard to imports and exports by land such of the inland States as levy duties in this connection may make a reservation that the existing practice will continue unaffected and that they will enjoy the proceeds of such duties.

(3) A general reservation may also be made to the effect that the Federation should not create a customs barrier in the interior of India which will affect the revenues of the States or be detrimental to the economic interests of the States.

N.B.—The above note is intended to bring out the main point and is not to be considered as a legal draft.

C 927/one

C 929

Ballabrooke,
Bangalore.

55-86-4

7th December 1936

OFFICE OF THE SECOND MEMBER OF COUNCIL. 10 DEC. 1936 NO 3839

DEWAN'S OFFICE - 7 DEC. 1936 No. 1778

3754
10/12

Dear Mr. Kesaviengar,

I send herewith for favour of disposal Circular letter No. 36, dated 27th November 1936, received from the Chancellor, Chamber of Princes, New Delhi, on the subject of the meetings to be held in connection with the question of the Instruments of Accession.

Yours sincerely,

For perusal

Dewan
1st member
2nd member

MS 7/12

MS 7-12-36

10/12

MS 10/12

MM 10/12/36

MS 10/12

CS.

No. 36.

Council House,
New Delhi.
27th November, 1936.

Your Highness,

With my Circular letter No.30 dated the 2nd November 1936, I forwarded to Your Highness a copy of my letter to the Hon'ble Sir Bertrand Glancy, Political Secretary to the Government of India, with enclosures thereto.

I now send Your Highness a copy of the reply I have received from the Political Secretary on the subject. I also enclose for ready reference a copy of the relevant Resolutions passed at the last Bombay Conference.

I shall be grateful if Your Highness will favour me with your views on the situation that has arisen and also with your definite suggestions as to what further steps I should take in the matter, so that the general wishes of the Conference may be effectively carried out.

The favour of an early reply is requested.

Yours sincerely,

UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

Copy of D.O. No.D.1278-Fed/36 dated New Delhi the 13th November, 1936 from the Political Secretary to the Government of India to His Highness the Chancellor, Chamber of Princes.

I write to thank Your Highness for your letter of the 2nd November 1936 forwarding the conclusions reached and the Resolutions passed at the informal Conference of Princes and Ministers held under your Chairmanship on the 30th and 31st October last at Bombay. I have laid Your Highness' letter with its enclosures before His Excellency the Viceroy and am desired to offer the following observations on the various resolutions concerned.

Resolution 1. His Excellency does not consider that any definite postponement is desirable. It is hoped that the great majority of the Princes will still find it possible to intimate their views by the time originally suggested.

Resolution 5. The joint discussion suggested does not appear to His Excellency to be necessary.

Resolution 6. The programmes of the Special Representatives have already been fixed and they have started on their tours. Ordinarily they will hold joint discussions only in the case of less important States. They will be ready to discuss any points which may be brought up by States as a result of the Bombay Conference.

Copy of Resolutions Nos 1, 5 & 6
passed at the General Conference
of Princes & Ministers held in
October, 1936.

1. That as it is desirable that after meeting the representatives of H.E. the Viceroy, there should be another Conference of Princes to work out their proposals in final form; the Viceroy may be approached kindly to extend the time by which the States are required to send in their proposals to a fortnight after the next Session of the Chamber so that the States may take advantage of the occasion for collective discussions before they finally submit their proposals.

Proposed by His Highness the Nawab Saheb of Janjira.

Seconded by His Highness of Patiala.

Passed unanimously.

5. This Conference recommends that His Excellency the Viceroy be approached to consider the advisibility of arranging that the general clauses, reservations and limitations, be considered between the nominees of His Excellency the Viceroy and representatives of States at some convenient time about the dates of the next Session of the Chamber of Princes to be settled between His Excellency the Viceroy and His Highness the Chancellor without prejudice to the programme and procedure of the Special Representatives' visits to the States.

Proposed His Highness of Sachin
Seconded by His Highness of Mandi.

Passed unanimously.

6. This Conference of Rulers and representatives of the States recommends to His Excellency the Viceroy that where the groups of States concerned so desire facilities should be provided for the special representatives to meet the Rulers and representatives of the States concerned collectively.

Proposed by His Highness of Nawanagar.
Seconded by His Highness of Patiala.

Passed unanimously.

(B.A.)

CB 1024

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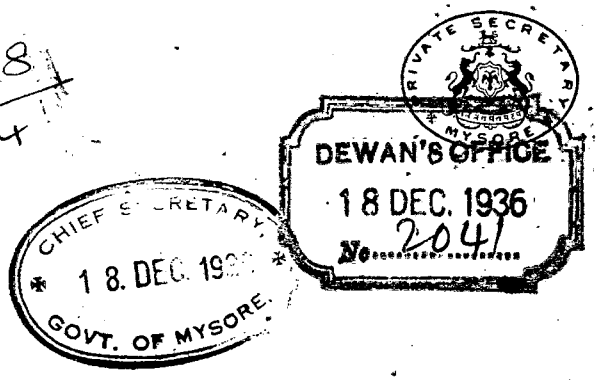

THE PALACE,

BANGALORE.

18th December 1936.

Sd
18/12

Dewan)

Dear Mr.Kesavaiengar,

18-12-36
21/12

I am desired to send herewith for favour of disposal the following circular letters received from His Highness the Chancellor of the Chamber of Princes,New Delhi:-

1. Circular letter No.1143,dated the 12th December 1936,on the subject of the engagement of Mr.J.H.Morgan,K.C.,as Counsel for the Chamber,

2. Circular letter No.1222,dated 12th December, on the subject of revision of the existing scheme in regard to the Indian States Forces.

3. Circular letter No.1299,dated the 12th December 1936 on the subjects of manufacture and export of salt by Durbars and the exercise of jurisdiction over State Subjects and other suzerain rights in Cantonment areas.

I also enclose a notice fixing the date of the next session of the Chamber of Princes received from the Foreign and Political Department.

Yours sincerely,

No. 1143

New Delhi.
12th December, 1936.

Your Highness,

As no definite reply has so far been received from Your Highness to my various communications on the subject of the engagement of Mr. J.H. Morgan, K.C., as Counsel for the Chamber, I venture to address Your Highness on the subject once again in the hope that Your Highness will give the matter the consideration it deserves, while there is still opportunity for doing so.

Mr. Morgan's services have been engaged in response to the request of a fairly large number of States who have elected to join our scheme, and he is expected to land in Bombay on the 24th of December, 1936. He will stay in India for about six weeks during which time he will advise the Chamber of Princes collectively and tender advice to individual States on their peculiar problems connected with the Instrument of Accession.

Though we have given Mr. Morgan a general idea of the number of States who are likely to require his advice, for which an inclusive fee has been stipulated with him, there is still time for other States who have not yet made up their minds to join the scheme and thus ensure for themselves the benefit of the scale laid down by the Standing Committee which is as follows:-

1. States with revenue below Rs. 10 lacs..... Rs.3000/-
2. States with revenue of 10 lacs or above but below 20 lacs..... Rs.3500/-
3. States with revenue of 20 lacs or above..... Rs.4000/-

After Mr. Morgan's arrival in India it will be open to him to negotiate with such other States as will not have joined our scheme by then and may wish to consult him. They will have to pay him such fees as might be mutually settled, which are likely to be much heavier than what the Chamber has laid down in consideration of the large number of States for whom arrangements have been made by it.

I will, therefore, beg to advise Your Highness to consider the matter if you want to have the benefit of the advice of such an eminent lawyer and let me have a definite reply by telegram followed by a remittance of the subscription chargeable from Your Highness' State, according to the scale indicated above.

Yours sincerely,

UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

B.A.

No. 1222

New Delhi.
12th December, 1936.

Your Highness,

Might I invite Your Highness' attention to my circular letter No.24 dated the 24th September, 1936 on the subject of revision of the existing scheme in regard to the Indian States Forces? This together with the allied subject relating to the attachment of Special Service Officers to the units of I.S.F. on mobilisation (about which also I sent round a circular on the 17th November, 1936) were considered by the Standing Committee on the 29th October, 1936. They were of the opinion that it was in the interests of States to have these two matters settled at an early date; and they therefore authorised me to appoint a Committee of Military Experts of Indian States to go into these questions, so that they should be ready for being taken up at the next formal meeting of the Standing Committee which has since been fixed for the 20th January, 1937. I shall feel grateful if Your Highness will kindly favour me at your earliest convenience with the views of your Government on these two matters, so that the Military Experts Committee may proceed with the task with a full knowledge of the individual views of the States concerned.

I shall be furtner grateful if Your Highness will also let me know the name of any State Military Officer who in Your Highness' opinion may be suitably appointed to serve on the Military Experts Committee to be constituted for the purpose.

Yours sincerely,

UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

No 1299

New Delhi.
12th December, 1936.

Your Highness,

Might I remind Your Highness of my Circular No.10 dated the 11th May, 1936, on the subjects noted below:-

1. That Government unwarrantably restricts the manufacture and export of salt by Durbars.

2. That Durbars should be permitted to exercise civil and criminal jurisdiction over State subjects and other suzerain rights in cantonment areas.

As a considerable time has elapsed since the date of the issue of that circular and no reply has so far been received from Your Highness' Government, I shall feel grateful if Your Highness will kindly see to it that your reply is expedited. The Standing Committee decided to ascertain from the States in their own best interests whether there were any complaints in regard to these two matters, so that steps could be taken to have them removed.

The next informal meetings of the Standing Committee have been fixed for the 18th and 19th of January, 1937, and a formal meeting of the Standing Committee takes place on the 20th January. In order that replies from the States may be considered by the Standing Committee at their informal meetings, it is necessary that replies from the remaining States are received in the course of the next two weeks so that the necessary memoranda on the subject may be framed and circulated to the members of the

Standing Committee by the beginning of January at the latest. This, as Your Highness will realise, is desirable in view of the forthcoming constituional changes.

Yours sincerely,

UDAIBHAN SINGH,

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

(B.A.)

PRESS COMMUNIQUE.

The next session of the Chamber of Princes (Narendra Mandal) will be held at New Delhi on the 22nd February 1937 and succeeding days.

Assistant Secretary to the Government of India
Foreign and Political Department.

New Delhi,
The 11th December 1936.

Copy to all Members and Representative Members of the Chamber of Princes, for information, with the compliments of the Secretary of the Chamber of Princes.

New Delhi,
The 11th December 1936.

CB 1436

THE PALACE,

BANGALORE.

9th February 1937.

C 1235

Encs.

Dear Mr. Kesavaiengar,

I am desired to send herewith for favour of disposal Circular letter No.3/692, dated the 1st instant, together with its enclosures, stating that the next session of the Chamber of Princes will commence at New Delhi on the 22nd February 1937.

Yours sincerely,

For favour of perusal and instructions.

2nd member) 9.2.37

Dewan) 9/2/37

10-2-37

Circular No. 3./1692

New Delhi.
February 1, 1937.

Your Highness,

Will Your Highness kindly refer to my Circular letter No. 40, dated the 5th December 1936, in which it was intimated that the dates for the next Session of the Chamber of Princes had been provisionally fixed about the 20th of February 1937. Since then His Excellency the Viceroy has definitely fixed the Session to commence on the 22nd February 1937.

Your Highness will also remember that in accordance with a resolution passed at the last Bombay conference, His Excellency the Viceroy was requested kindly to extend the time by which the States were required to send in their proposals to a fortnight after the next Session of the Chamber and in that connection I circulated with my letter No. 36 dated the 27th November 1936, a copy of the reply received by me from the Political Secretary to the Government of India.

Besides the ordinary work relating to the Session of the Chamber, reports of the Constitution and fiscal committees as well as the advice of our eminent counsel, Professor J.H.Morgan K.C., are to be considered at our Informal meetings preceding the Session.

It is, therefore, proposed to hold a General Conference of Princes and Ministers on the 19th, 20th and 21st of February 1937.

It will greatly facilitate the work of my office who have to make necessary arrangements for the informal meetings if Your Highness will kindly instruct your office to intimate in due course to my Secretary the date and time of Your Highness' arrival and your address in Delhi.

For the sake of convenience, I enclose a printed form which may kindly be filled up and sent back at Your Highness' earliest convenience. I also enclose a copy of the Agenda for Your Highness' information.

Yours sincerely,

UDAIBHAN SINGH.
Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes

U R G E N T.

M E M O.

From

_____

_____

_____

To,

The Secretary

to H.H. the Chancellor,

Chamber of Princes,

Council House,

NEW DELHI.

With reference to His Highness's the Chancellor's Confidential Circular letter No.3 dated the 1st February, 1937, I write to say:-

His Highness hopes to arrive at Delhi on the ____ February, 1937, at _____ a.m./p.m. and that he shall be staying at _____ _____ till the _____ 1937.

Dated _____.

_____

Signature.

Agenda of the Informal Conference of Princes and Ministers to be held on 19th, 20th and 21st of February 1937.

----oOo------

No memorandum necessary.	1. Opening statement of His Highness the Chancellor.
The reports and advice will be got printed and circulated as soon as received.	2. Consideration of the report of the Fiscal committee, 3. Consideration of the report of the Constitution committee. 4. Consideration of the legal opinion on the question of the States' accession to Federation.
No Memorandum necessary.	5. To ascertain the wishes of the Princes in regard to any matter to be included in the Princes' reply to His Excellency the Viceroy's opening address to the Chamber and to fix time and date for the approval of the draft of the Princes' reply.
Ditto Ditto.	6. To consider the names of speakers on the resolutions to be moved in the formal meetings.
Memoranda will be circulated by the Foreign & Political Deptt. of the Govt. of India.	7. Consideration of the following items of the Agenda of the Formal meetings:- (a) Employment of Europeans in Indian States (b) Mail Robbery Rules.
Will be circulated later.	8. To receive a statement from His Highness the Chancellor regarding accounts of the Chamber fund for the last two years and to pass the Budget of the Chancellor's office for the year 1937.
Memorandum attached.	9. Enlargement of the Chamber of Princes by admitting additional members.
	10. Any other points emerging from the meetings of the Standing committee.

Informal Conference of Princes & Ministers, Feb. 1937.

Memorandum Explanatory of Agendum No 9.
Enlargement of the Chamber of Princes.

In July 1931, His Highness the Chancellor wrote to the Political Secretary to the Government of India, saying that as a result of the proposed Constitutional changes, there was considerable anxiety felt by a number of smaller States who were not at present members of the Chamber in their own right but who claimed that they were entitled to this privilege under clause 2 of the Chamber Constitution. The Chancellor, therefore, enquired the names of those States who had claimed membership in their own right. The Political Secretary forwarded a list of 21 such States.

At the meeting of the Standing committee held on the 5th March 1932, the matter was considered and a special committee of Princes was appointed to deal with the matter so that the whole question could be examined and the claims of all States desiring admission could be scrutinised, on the basis of some criterian. The Special committee took up the matter in its meeting of the 15th March 1933, and during the discussions it was found that there was a great divergence of opinion on this subject among the members of the committee. It may be noted that His Excellency the Viceroy was inclined to the provisional view that any State possessing a population of 1 lac and a revenue of 3 lacs should have no restrictions on its internal powers which would disqualify it for consideration for membership of the Chamber under clause 2 (II) of the Constitution of the Chamber, provided that there were no special circumstances which would in the opinion of His Excellency the Viceroy render such a course impracticable; and that the 21 States whose names were intimated by the Political Secretary satisfied the proposed test.

P.T.O.

At the Informal meeting of the Standing committee held in Bombay on the 19th June 1933, it was discovered that Their Highnesses the Maharawal of Dungarpur, Maharana Raj Saheb of Wankaner and the Maharaj Rana of Jhalawar were in agreement with the suggestion made by His Highness the Maharaja Saheb of Alwar, At the meeting of the Special committee held in March 1933, namely that the test of 1 lac of population and 3 lacs of revenue should be raised to 3 lacs of population and 5 lacs of revenue. His Highness the Maharaja Saheb of Bikaner stated that his opinion in the matter was the same as before i.e., on principle the Chamber should not be overflooded by the inclusion of comparatively smaller States.

His Highness the Maharajadhiraj of Patiala was of opinion that the criterian proposed by the Government of India, whereby all the 21 States could be admitted into the Chamber, should be accepted. Their Highnesses the Maharaj-Rana of Dholpur and the Raja Saheb of Sangli shared this view, while Their Highnesseses the Nawabs of Rampur and Bahawalpur and the Maharaja of Panna who were not present at Bombay later agreed with the views of His Highness the Maharajadhiraj of Patiala. His Highness of Panna made a further observation that the States should be chosen from all Provinces for inclusion into the Chamber, the criterianbeing tradition, political significance, population and area. These divergent views of the committee were communicated to the Political Secretary in September, 1933.

This matter was informally discussed with the Political Secretary by Their Highnesses of the Standing committee on the 20th January 1937. The Political Secretary stated that the Govt. of India since the receipt of the divergent views of the members of the Standing committee had been waiting for an agreed solution of the problem from the members of the Chamber. There was a general feeling that Their Highnesses should do their best to pursuade their brother Princes to accept an agreed solution before anything further can be done in this direction.

CB 1496

Ballabrooie,

Bangalore.

9th February 1937.

C 1251

Encs.

S'176

17/2

Dear Mr. Kesavaiengar,

I am desired to send herewith for favour of disposal the following papers received from His Highness the Chancellor, Chamber of Princes with his note of the 4th instant.

✓1. Report of the Fiscal Committee with:
a. Memorandum on Federal Finance by Sir B.N. Mitra.
Taken by 2nd member x b. Memorandum on Federal Finance by Mr. Manu Subedar.

x2. Letter No.68-C.C. from the Rt. Hon'ble Sir Akbar Hydari to the Political Secretary to the Government of India.

3. Hyderabad Memorandum of January 1937.

For perusal.

Yours sincerely,

(1st member)

MS 17.2.37

I have retd No 1

MS 22/2

Office of H.H. the Chancellor, Chamber of Princes.

The following papers are sent herewith with the compliments of His Highness the Chancellor, Chamber of Princes:-

1. Report of the Fiscal Committee with:
   a. Memorandum on Federal Finance by Sir B.N. Mitra;
   & b. Memorandum on Federal Finance by Mr. Manu Subedar.
2. Letter No.68-C.C. from the Rt.Hon'ble Sir Akbar Hydari to the Political Secretary to the Government of India.
3. Hyderabad Memorandum of January 1937.

Report of the Constitution Committee is not yet available.

:-:-:-:

Council House,
New Delhi.
4th February, 1937

Confidential.

Report of the Federal Finance Committee of the Chamber of Princes.

January, 1937.

Part I.—Preliminary.

1. A sub-committee of the Federal Finance Committee held preliminary consultations with the Financial Experts at Bhopal from December 10th to December 13th, 1936, commenced its sittings at Bhopal on January 3rd, 1937, and concluded its deliberations on January 10th. At times when His Highness the Chairman was unable to preside, the chair was taken by Sir Joseph Bhore.

2. The Committee desires to place on record its appreciation of the services of Sir Bhupendra Nath Mitra and of Mr. Manu Subedar. These two experts not only provided Memoranda of great value, but afforded the Committee the advantage of their knowledge and experience in personal discussion throughout the entire session.

3. Both Memoranda proved to be of so important a character, and to raise questions of such vital moment to the States, that the Sub-Committee, despite its best efforts, found itself unable to record its opinion upon these documents in time to allow a meeting of the Committee to be held in Delhi on January 8th. The Sub-Committee was accordingly obliged to approach His Highness the Chairman with a request that the final meeting should be postponed, which was accordingly done.

The final meeting of the Committee was held at Delhi on the 24th January. His Highness the Jam Saheb of Nawanagar was unfortunately prevented by his engagements from being present at the meeting.

4. The authoritative character of both Memoranda, and their great value, as they stand, to every State, require that a careful study of both these documents should be made, and the Committee recommends to the States that the same should be read along with the Report before arriving at final conclusions.

5. The Committee desires also to express its gratitude to the following States, which have co-operated with its work by sending in advance their views on the question of Federal Finance:—

Alirajpur	Bansda	Bhor
Bijawar	Bilaspur	Cochin
Dharampur	Gondal	Jaipur
Janjira	Jaora	Jasdan
Jhalawar	Khilchipur	Khairpur
Orcha	Palitana	Panna
Partabgarh	Radhanpur	Sangli
Santrampur	Samthar	Sarila
Savantwadi	Sirohi	Sitamau
Suket	Wankaner	

The matters raised in the communications from these States have, in the opinion of the Committee, been adequately dealt with in the Experts' Memoranda and in the comments thereon. For this reason, the communications received from individual States, though carefully considered by the Committe, are not separately particularised in this Report.

GENERAL REMARKS.

6. In its consideration of both Memoranda, the Committee has selected for comment those points only which strike it as particularly important; but it should be clearly understood that absence of comment upon other points does not necessarily imply either agreement or disagreement with the views of the Experts.

Part II.—Notes upon Certain Financial Topics Raised by the Act.

EMERGENCY SURCHARGE.

7. As the surcharge will be imposed only after the Governor-General has discharged his obligation to see that all practicable economies and all practicable measures for increasing the proceeds of Federal taxation etc. have been taken, and that the portion of the income-tax retainable by the Federation has failed to produce a balanced budget, a position of "emergency" may be said to have arisen, and it is not possible to refuse acceptance of this surcharge.

8. The Committee is of opinion that the intention of the States, which have agreed to the Hydari statement regarding the retention of income-tax by the Federal Government in time of emergency, is not entirely clear from the language of the statement. If the statement means that in such a case the process of returning further instalments of income-tax to the Provinces shall be for the time suspended, then the Act makes the necessary provision. If the statement means that sums already payable to the Provinces should cease to be so paid, then the Act does not implement the intention. It may, however, be pointed out that once a portion of the income-tax has been returned to the Provinces, it will be extremely difficult, even perhaps undesirable, to suspend payments of that portion. Some members of the States' Delegation to the Joint Parliamentary Committee, who are also sitting on the Hydari Committee, have, it is understood, raised certain objections to the provisions in the Act stated above, and it will be interesting to examine the final conclusions of the Hydari Committee on this point.

ADMINISTRATIVE AGREEMENTS.

9. We note that arrangements for local administration are contemplated under three sections of the Act, 6 (2), 124 and 125. No doubt the Constitutional Committee will consider under which of these sections it is expedient that the arrangements should be concluded. We consider that wherever practicable, the States should insist upon taking over administration under section 125.

POWERS OF THE GOVERNOR-GENERAL.

10. It is understood that extra-Statal rights will fall to be protected, when acknowledged as rights, by the Governor-General, who will receive directions to this effect in his Instrument of Instructions. This would require an

amendment of Article XV of the present draft Instrument or an amplification of the Instrument itself. The Committee has elsewhere suggested that States should urge for an opportunity of scrutinising the revised draft before it is finally submitted to Parliament.

PRE-FEDERATION DEBT AND PENSIONS.

11. The Committee considers that this question has been already disposed of. But if any States still have difficulties with regard to this matter, we recommend a careful study of Paragraph 14 of Sir Bhupendra Nath Mitra's Memorandum and of the answers to Questions 16-25 in Part 2 of Mr. Manu Subedar's Memorandum.

SAFEGUARDS.

12. We have thought it necessary to protect the legitimate interests of the States by our suggestions in regard to such matters as excise, corporation tax, etc. in Part III of our report.

DISCRIMINATION.

13. The Committee cannot admit that discrimination should be legitimate in any respect against a State that has entered the Federation; for in our view the absence of discrimination should be one of the inducements attracting a State to enter the Federation. While the Committee considers that this question is primarily one for the Constitutional Committee to deal with, it would be failing in its duty if it did not advise the States to specify against each taxation item in the schedule that the rates of taxation levied in the case of a State shall not exceed the standard rate current throughout the Federation. In this connection the Committee further recommends that States should ask for an opportunity of considering, prior to their accession, the final draft of the Instrument of Instructions to the Governor-General; and, in putting forward this request, it should be coupled with the suggestion that the wording of this clause in Article XV of the draft Instrument should be modified to substitute the words " seriously affect " for the existing word "imperil"

EXEMPTION OF RULERS FROM BRITISH INDIAN TAXATION.

14. Where Rulers enjoy exemption from British Indian taxation in respect of income of property, such exemption should be 'listed' for protection by the Governor-General,

VALUE OF RIGHTS IN SECTION 147 (6).

15. The Committee is of opinion, that there are certain rights, whose value in terms of money cannot be determined, for instance, postal, currency and salt rights. It would be safe for the States to reserve the full implication of the rights and obligations under their arrangements with Government. If, however, treaties are to be reconsidered at all, they should be negotiated according to the usual method with the Government of India in the Political Department, and not by some method on the plea of federation. Where a valuable consideration has been given by a State by the surrender of certain inherent sovereign rights and, in return, certain concessions have been given and, as the result of the composite arrangement, certain rights are retained by the State, a request should be made to His Majesty to be graciously pleased to direct that such privileges or immunities "ought not to be taken into account for the purposes of" Chapter II, Part VII of the Act.

CONCURRENT POWERS OF TAXATION.

16. An important legal question arose in connection with this head. The Committee had the benefit of Counsel's opinion on this subject. The Committee has been advised that the States retain not only the residual powers of taxation under all heads, but also retain concurrent powers to levy tax in their own States under a federal head when the Federation has not levied any tax, or by way of a surcharge when the Federation has levied such a tax. At the request of the Committee, His Highness the Chancellor has agreed to address the Government of India on this subject. Since the Act does not debar the States from exercising the power described above, the Committee recommend the States to keep this in mind and to get authoritative information from the Viceroy's representatives on this subject, if they so desire.

SECTION 149.

17. Since the Experts differ in regard to the precise interpretation of Section 149, the Committee recommends that the matter should be referred to the Constitutional Committee.

GENERAL POLICY OF THE STATES.

18. It is certainly in the best interests of the States that they should speak with a common voice on matters that concern them all. But we are definitely of the opinion that the States would be well advised, to concentrate on a limited number of such reservations as are considered essential for their vital interests.

METHOD OF ACCESSION.

19. The Committee considers that settlements with different States might be different (Sections 6, 125 and 147), because the rights enjoyed at present differ in respect of several States. It would be well, therefore, for the States to tabulate their existing rights under treaties, agreements, engagements, usage, or sufferance, and to think out ways and means for their protection by suitable agreements or by reservations in their Instruments of Accession.

GENERAL SUGGESTIONS.

20. The States have been requested to come to a very early decision in regard to the question of their accession to the Federation. We appreciate fully the need for an early decision, but it appears to us necessary that, before reaching final conclusions in respect of the financial implications of the Federal scheme as embodied in the Act and the draft Instrument of Accession the Budget for 1937-38 of the Government of India should be carefully examined.

Part III.—Federal Legislative List.

ITEM No. 4.—Ecclessiastical Affairs.

21. The Committee feel the necessity to refer to a minor financial point arising under this item. In view of the fact that important religious funds exist in many States, the Committee recommends that this item be specified with the exclusion of non-Christian religious affairs within a State. But it is recognised that some States may need a more elaborate limitation.

ITEM No. 6.—Public Debt of the Federation.

22. Our remarks upon this head have already been given in paragraph 11 above.

ITEM No. 7.—Posts and Telegraphs, including telephones, wireless, broadcasting, and other like forms of communication; Post Office Savings Bank.

23. The financial aspects of this item are a matter for the consideration of individual States. The constitutional matters are expected to be dealt with by the Constitutional Committee.

ITEM No. 9.—Federal Pensions.

24. Our remarks have been given in paragraph 11 above.

ITEM No. 19.—Import and export across customs frontiers.

25. In the case of States, which levy duties of import or export across a land frontier, a specific provision should be made in their Instruments of Accession against items 19 and 44 to exclude the land frontier of such States from the legislative authority of the Federation, and to ensure that no action will be taken by the Federation interfering with the Rulers' right to impose a customs cordon and to levy import and export duties on the land frontier of their States. In addition, this right along with the existing right of free trade with British India should be 'listed' among the rights of the States concerned.

25-*a*. In regard to the question of the Viramgam Frontier the Committee strongly recommends the States concerned to survey the entire position in the light of the proposed federal scheme.

ITEM No. 20.—Federal Railways, etc.

26. It is for the States owning railways to consider whether they will specify the subject or not; and if they specify it, what conditions or limitations should be imposed by them. Railway-owning States are advised to enquire from their legal advisers whether the specification of item 20 will involve any financial obligation of the type which States will endeavour to exclude by the non-specification of item 58.

ITEM No. 26.—Carriage of passengers and goods by sea or by air.

27. It would be advisable for the States to ascertain from their legal advisers whether item 26 involves taxation. If it does, they would no doubt desire to consider whether they will specify this item or not.

ITEM No. 28.—Cheques, bills of exchange, promissory notes and other like instruments.

28. The same remarks as against item 26.

ITEM No. 29.—Arms; firearms; ammunition.

29. This question is largely administrative and will no doubt be dealt with by the Constitutional Committee. The item may, in our opinion, be specified on condition that existing rights and concessions enjoyed by the Ruler, members of his family, retainers, State Forces and Police are maintained.

ITEM No. 33.—Corporation.....

30. We recommend that States should consider with reference to conditions prevalent in their territory, whether they should not specify this item with the following

reservation, *viz*, (*i*) A State retains the right to insist upon a license being taken out by all firms and corporations intending to do business or trade within its territory, and (*ii*) if a Company operating within a State winds up, the assets of the Company in the State should be with the Court liquidator in the State and should be used first for paying off the liabilitions of the Company in the State either to the State or to private individuals.

Note:—The Committee considers that it would be advantageous to the States and the Federation as a whole if States should specify items 28, 33 and 38. In deciding upon this question, States will no doubt take into account the possibility that the specification of item 28 may render the States liable to taxation even if they do not specify item 57. The net proceeds of taxation is distributable among the units, but the Federal Government may impose a surcharge that will not be distributable.

ITEM No. 34.—Development of Industries.

31. We recommend that item 34 be specified with the proviso that the power of the Federal Legislature to make laws for the States in respect of the development of industries shall be limited to providing for subsidies and cesses and national institutions for furthering the development of industries by research, education, or propaganda, not being institutions empowered to carry on or control the industries. We believe that this view is supported by the Hydari Committee.

ITEM No. 38.—BANKING.....

32. See note on item 33 above.

ITEM No. 44.—Duties of customs including export duties.

33. The Committee considers that this is primarily a matter for the States immediately concerned, whose individual treaties and agreements differ so much that no general principle can usefully be laid down.

ITEM No. 45.—Duties of excise on tobacco and other goods manufactured or produced in India except..... "

34. In view of the fact that it is to excises that the States must look for the growing needs of their population, the Committee believes that the proper method of procedure would be a refusal to specify item 45, but the States

may give an undertaking that they will impose upon excisable goods produced in their own territory excise duties at rates not lower than those imposed by a Federal legislation.

ITEM No. 46.—Corporation Tax.

35. We recommend that this item be specified subject to the limitation that corporations owned or controlled by a State and operating inside the State, should be exempted. A precise definition of "Corporation Tax" is necessary. The States should obtain this before specifying the item. The definition given in section 311 (2) of the Government of India Act, appears to be inadequate, *q. v.* concluding para of Sir Otto Niemeyer's letter of 6th April, 1936 to the Secretary of State, appearing as annexure to the latter's despatch of 20th May, 1936, in which Sir Otto says that the Government of India are dissatisfied with the existing definition of Corporation Tax and contemplate proposals for its amendment.

Refer

ITEM No. 47.—Salt.

36. Certain States have salt arrangements or agreements with the Government of India. A consideration of its own arrangements or agreements will no doubt enable each State to decide whether it wishes to federate in regard to salt or not. These States are recommended either to make re- servations to preserve their arrangements or agreements, or to use them as a basis upon which an equitable understanding can be reached.

ITEMS No. 54 to 58.—

37. The Committee finds it difficult not to recommend the acceptance of the obligation of the surcharge as laid down in the Act, but recommends that States should not specify item 54 so that they can retain their freedom in respect of income-tax.

States which have administrative arrangements with the Government of India regarding relief from double income-tax are advised to 'list' such arrangements for protection. Further, the principle of the Chamber of Princes' Resolution on the subject, which is already applied to some States, should by arrangement now be made applicable to all States that may levy income-tax.

In general, it may be noted that if States do not federate for items 56 to 58, the proviso of Section 137 will be excluded. On the other hand, States specifying these items will incur liability to Federal surcharge if such is imposed. If, however, States do decide to specify these items which it is understood they are not expected to do, they will doubtless desire to reserve administration under Section 125.

ITEM No. 59—Fees. etc.

38. The Committee understands that the fees appertaining to subjects specified in the Instrument of Accession of a State, of which the administration is left to the State, will be retained by the State, except where the cost of administration is paid by the Federal Government to the State. Where the administration is not retained by the State, it is understood that normally the fees will go to the Federation.

The Committee considers that items 1, 2, 3, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 27, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42 and 43 are primarily matters for the consideration of the Constitutional Committee. Such financial implications as do arise have been pointed out in the Memoranda of the two experts to whose remarks the Committee has nothing to add.

Sd. Hamidullah of Bhopal.

Sd. Udaibhan Singh of Dholpur.

Sd. P. D. Pattani.

Sd. G. Kaula.

Sd. H. B. Kotak.

C/S 1493

Vasantha Mahal,

Mysore.

16th February 1937.

C.900
Enc. 4

PRIVATE SECRETARY MYSORE

DEWAN'S OFFICE
1 FEB. 1937
No. 33.23...

S 176
17/2

Dear Mr. Kesavaiengar,

I am desired to forward herewith for favour of disposal circular letter No.868 of the 7th instant together with its enclosures received from His Highness the Chancellor, Chamber of Princes, New Delhi, regarding additions and amendments to the Instrument of Accession proposed by the Ministers' Conference held at Bombay in October last.

Yours sincerely,

For perusal

(1st Member) MWS 17/2

Suit'd

(Dewan) MWS 17/2

17/2

18-2-37 MWS 19/2

868/4

4 Council House,

NEW DELHI.

7th February, 1937.

Your Highness,

Might I invite Your Highness' attention to my Circular letter No.36 dated the 28th November, 1936, with which I forwarded a copy of the reply which I had received from the Political Secretary in regard to the resolutions Nos. 1, 5 and 6 passed at the Bombay Conference held in October, 1936. In consonance with the wishes of a considerable number of my brother Princes, I approached His Excellency the Viceroy again in respect of Resolution No.1, and I have now received a reply from the Political Secretary conveying His Excellency the Viceroy's decision. I send herewith for Your Highness' information a copy each of the letter addressed by me to the Political Secretary and that of the reply sent by him.

In regard to Resolution No.7, a reply has only just been received from the Political Secretary and copy thereof is also appended hereto for your information.

Thus Your Highness will be able to appreciate that everything that was possible was done to serve the best interests of our Order.

Trusting this finds Your Highness in the enjoyment of excellent health.

Yours sincerely,

UDAIBHAN SINGH.

Maharaj-Rana of Dholpur,
Chancellor, Chamber of Princes.

Copy of a letter No.Spl-114 dated the 13th January 1937, from His Highness the Chancellor, Chamber of Princes, to the Political Secretary to the Government of India, New Delhi.

Will you please refer to your D.O.letter No.1278-Feb./36, dated the 13th November, 1936?

I circulated copies of your letter confidentially to the members of the Chamber of Princes and a considerable number of them have written to me to say that His Excellency the Viceroy might be approached again. I am, therefore, writing to you in order that you may place before His Excellency the Viceroy the request of the Princes along with reasons adduced herein.

From the language which you have used, it does not appear that His Excellency the Viceroy contemplates a strict enforcement of a time limit for the submission of proposals regarding the Instrument of Accession by the Indian States. When you say that His Excellency "does not consider that any definite postponement is desirable", I am inclined to agree with the underlying desire to expedite the matter in the shortest possible time. I want this to be clearly understood that there is no desire either on my part or on the part of the Princes in general to delay the matter. On the other hand, I find that the Princes are actuated by a genuine desire to help His Excellency the Viceroy in the matter of the drawing up of the States' Instruments of Accession. I hope you will agree with me that this is so, when I relate to you the reasons which led the Princes to pass the Resolutions that they did at their Conference in Bombay.

The meetings and Conferences of Ministers and Princes which have been held during the past five months have helped a great deal in bringing to all of us a clearer understanding of the Federal scheme in general and of the Instrument of Accession and its

P.T.O.

schedules in particular. It was further realised more clearly, that in the general form of the Instrument, as well as the limitations to be made under most of the items in Schedule No.1, the provisions are likely to be more or less similar in the case of most of the States. It was in view of this that we all thought that it would be highly desirable in the interest of expedition itself, that a joint discussion might be arranged, so that all the matters which are capable of being discussed and settled jointly might be so disposed of. Everyone of us was fully conscious of the great advantage of individual discussions with the Viceroy's representatives but it was felt that a collective discussion at the end of the tour of (1) the Viceroy's representatives would be immensely helpful as it would be the surest and quickest way of covering that vast field which is common to all.

It was also felt that as a result of their talks with the Viceroy's representatives they may find that their views which had been formulated previously may have to undergo a change, and as most of the matters were of a type which would have equal application to all the States, they thought that it would be most useful (2) to have a Conference of their own after the tours of the Viceroy's representatives had been finished. This Conference was to take stock of the whole situation in the light of the discussions with the Viceroy's representatives; and in order that they may be better able to do so, the Princes appointed two committees to deal with the fiscal and the Constitutional sides of the questions involved. Their reports were decided to be made available about the end of January as the tour of the Viceroy's representatives continues till about the middle of January. As it was known that the next Session of the Chamber was going to be held sometime in February, it was decided to take advantage of that occasion, when a large number of Princes are likely to gather and hold discussions at an informal Conference which usually precedes the Chamber Session.

P.T.O.

If this programme is accepted, final proposals can be submitted by each State, say within ten or fifteen days after the Session concludes, that much time being needed for the Princes to return from Delhi to their States and finally to formulate the proposals and put them into shape.

It would thus appear that the idea was not to postpone or delay but to have the fullest advantage of the views of and discussions with His Excellency the Viceroy's representatives, as well as, of the expert advice which they will get in the meantime from their financial and constitutional experts, whose services have already been secured and of the two committees, as well as, of the large gathering which takes place at the time of the Chamber. In a matter like this, which has a history of several years of joint discussions and deliberations behind it, it is not unnatural on the part of the Princes to avail of every opportunity of such discussions so as to be definite in their minds before they take the final step; and I hope, you will agree that as there is no desire to delay the matter or to postpone it, there would not be any harm if they are allowed to benefit by the gathering at the time of the Chamber Session before submitting their final proposals individually.

I may further point out that if the Princes know that this matter, which is of such a vital importance to each one of them, is going to be discussed at Delhi, a very large number of them are likely to come and unlike the past years we will have a record gathering at this year's Session. To my mind it is highly desirable to have a well-attended and successful session at such an important time. If on the other hand, the Princes have sent in their proposals beforehand and feel that the matter is not going to come up for discussion at the Informal Conference previous to the Session, their interest in the Session itself might slacken and we may get a much smaller number of Princes at the Session, than I for one would like to have.

P.T.O.

For all these considerations, it was thought desirable to represent to His Excellency the Viceroy that he may kindly see his way to agree to the substance of Resolution No. 1 passed at the Bombay Conference. The purpose could be achieved in two ways. Either the last date for the submission of the proposals might be fixed at, say, the 7th of March, instead of the 17th February; or the Session itself might be speeded up by a week or ten days and held earlier in February, so as to allow sufficient time for the Princes to submit their proposals by the last week of February. I would personally like the adoption of the second course as that would save two weeks' time. I prefer this for another reason. Some of Their Highnesses are likely to be engaged in marriages about the dates now fixed for the Chamber Session and we are likely to secure a better gathering about the 10th or 11th of February than on the 22nd.

I trust this letter will be received in the spirit in which it has been written and it will be realised that I and the Princes taking part in the Chamber are actuated with a desire to offer their fullest cooperation to His Excellency the Viceroy.

I understand that His Excellency is now away from Delhi and will not be back till late in January, but as I feel that the subject matter of this letter is of great urgency, I would request you to approach His Excellency as expeditiously as possible.

Copy of a D.O.No.F.297-Fed/36 dated the 26th January, 1937, from the Political Secretary to the Government of India, New Delhi, to His Highness the Chancellor, Chamber of Princes.

I write to thank Your Highness for your letter No. Spl.114 dated the 13th January 1937, regarding the proposed extension of time for replies by States to letters regarding the Federal Negotiations. I have taken the orders of His Excellency the Viceroy who has carefully and very sympathetically considered the proposals but regrets that he still remains of the opinion that the conference proposed is of doubtful utility; any advantage to be derived from it has further diminished owing to the fact that the Government of India are prepared to recommend to the Secretary of State that the benefit of any reservations accepted as necessary in the interests of States which have asked for them shall, if so desired, be extended to other States similarly situated; such reservations must, however, be formally asked for by the States concerned once these are brought to their notice so that they can be duly inserted in the Instruments of Accession of those affected. I am to add that His Excellency has, however, been pleased to agree to an extension of time till the 15th of March to States in the case of which the Special Representatives' discussions were not completed by the 15th of December. The Political Officers concerned have been asked to inform the States affected accordingly.

Copy of a D.O.No.F.297-Fed.I/36, dated the 4th February, 1937, from the Political Secretary to the Govt. of India, New Delhi, to His Highness the Chancellor, Chamber of Princes.

Many thanks for Your Highness' letter No.626 dated the 30th January. Additions and amendments to the Instrument of Accession on the lines of those recommended by the Ministers' Conference at Bombay in October last, which were supported in Resolution No.7 referred to by Your Highness were put forward by a number of States and formed the subject of discussion with the Special Representatives. The Government of India are now awaiting the views of the States concerned after the latter have taken into consideration the explanations offered by the Special Representatives.

CB 1895

Camp: Kemmangandi,

27th April 1937.

PRIVATE SECRETARY MYSORE

DEWAN'S OFFICE
1 MAY 1937
No. 4770

CHIEF SECRETARY
CB
30 APR 1937
GOVT. OF MYSORE

No. 2746
Encs.

SECOND MEMBER
1937
No. 8054

Dear Mr. Kesavaiengar,

I am directed to send herewith for favour of disposal the undermentioned Reports received by His Highness from H.H. the Chancellor, Chamber of Princes, New Delhi:-

1. Report of the Joint Committee of the Constitutional and Finance Committees on the Federal Excise and the proposed additional item in regard to the levy of surcharge.

2. Report of the Sub-Committee of the constitutuion Committee of the Chamber of Princes on implications of the sections of the Government of India Act 1935, applicable to the Indian States.

Yours sincerely,

N. Madhava Rao

For perusal

MS
30/4

Dewan
1st member
2nd member

MS
1-5-37

10/5/37

MS
10/5.

Office of H.H. the Chancellor, Chamber of Princes.

Forwarded with the compliments of

His Highness the Chancellor, Chamber of

Princes.

Council House,
New Delhi.
19th April, 1937.

Encl:

1. Report of the Joint Committee of the Constitutional and Finance Committees on the Federal Excise and the proposed additional item in regard to the levy of surcharge.

2. Report of the sub-Committee of the Constitution Committee of the Chamber of Princes on Implications of the Sections of the Government of India Act, 1935, applicable to the Indian States.

Confidential
For private circulation only.

Report of the Constitutional Committee of the Chamber of Princes.

The Hindustan Times Press, Delhi.

REPORT OF THE CONSTITUTIONAL COMMITTEE.

1. A copy of resolution No. 3 is given as Annexure I to show the composition of the Constitutional Committee and its terms of reference.

2. The Committee met from the 25th January to the 6th February, 1937, and the present report deals with the conclusions unanimously arrived at by the Committee in respect of the general form of the Instrument of Accession, Treaty and other rights within the Federal sphere, Administration and the Federal Legislative List. The names of members present during this session and of those who attended as observers are given in Annexure II. The Committee desire to make it clear that the present report forms only the first part of the full report and that it is proposed to meet again shortly in order to consider other matters affecting accession.

3. The Committee had before them both the essential and the negotiable safeguards suggested by the Chamber of Princes in 1933, and have examined them with a view to ascertaining how far they had been met by the Government of India Act 1935, and by the proposed draft Instrument of Accession. A list of the safeguards is contained in Annexure III. Upon careful consideration they have come to the conclusion that the safeguards have been substantially met and that, in so far as they have not been met or remain open to doubt, the recommendations suggested below will effectively achieve the objects which the safeguards were designed to serve. Nor are the recommendations conceived only in the light of the safeguards thus formulated; they represent conclusions arrived at independently by an examination of the Act and of the Draft Instrument and by an appreciation of what they consider to be essential in the interests of the States.

4. The Committee have had the benefit of examining the material prepared by other Committees, such as the Informal Committee of Ministers, Committees constituted by various regional groups of States and the Bombay Conference of Princes and Ministers. In examining the various recommendations thus placed before them, they have been mindful of the fact that the Government of India Act has already been passed, and that, therefore, suggestions for the amendment of the Act itself should, wherever possible, be avoided. Similarly, in the course of their examination, they have confined their recommendations to what they consider should be the essential demands of the States. They are happy to be able to report that in formulating these recommendations the Committee are of the unanimous view that they should be pressed, both collectively and individually, by the States, for inclusion in the Instrument.

5. The Committee first considered the general form of the Instrument of Accession, and a copy of the draft as finally approved, which has for its basis the draft Instrument circulated to the States by the Government of India, is contained in Annexure IV.

6. The Committee are unanimously of the view that the clause dealing with "purpose" which is altogether new should be entirely omitted. They consider that objection to the use of such terms as "united" is secondary in comparison with the consideration that the statement of a political ideal in a legal document may cause a tendency to set in which may have undesirable consequences whenever a matter of doubt or difficulty arises in regard to the construction of a particular clause. The omission of the clause would in no sense detract from the constitutional value of the Instrument as governing the accession of the States, and the Committee are convinced that the omission of the clause should be strongly urged.

It is felt, however, that the mention of the parties to the Federation, as made in the clause, should remain, and the Committee recommend that in view of the proposed omission of the clause itself, the following words should be inserted in the third recital to the Instrument after the words "Federation of India":—

> "Consisting of the Rulers of Indian States, the Provinces called Governors' Provinces, and the Provinces called Chief Commissioners' Provinces".

The order in which the constituent units have been mentioned above is in accordance with unvaried past practice.

7. Clause 3 of the States' Draft Instrument of Accession of the 9th July, 1936, has not been included in the Government of India draft. The Committee desire to propose an amendment to that clause as follows:—

> "No function in respect of any matters specified in the first Schedule hereto or under any provision of the Act which applies to this State by virtue of this Instrument of Accession shall be exercised in relation to this State by any authority other than a Federal authority, and save in accordance with the terms of this Instrument".

The object of this clause is partly covered by Section 294 (2) of the Act which prevents the exercise of federal powers inside the State otherwise than by the Federation. The clause itself is intended to prevent the exercise in relation to the State of federal powers outside the State otherwise than by the Federation. It also covers the Railway Tribunal which has been omitted, perhaps by inadvertance, from Section 294 (2). Moreover, there is an advantage in making it clear in the Instrument itself that federal powers and paramountcy powers cannot co-exist in respect of the same area. The argument that, if it is a gloss on the Act, it usurps the functions of the Federal Court, does not appeal to the States as the clause represents what the States understand to be the intention of Section 294 (2). If there is room for doubt as to the meaning of Section 294 (2), the States are entitled to have the position clarified. If there is no room for doubt, there appears to be no valid objection to clause 3. The rigid insistence

on the letter of the rule that the Instrument should not contain provisions which may repeat or explain the provisions of the Act itself may lead to difficulties which can be avoided without in any way going counter to the scheme of the Act itself. There may be a point in saying that it is desirable that the Instrument should contain provisions which are not in any sense inconsistent with the Act, but so far as merely making explicit what is admittedly the intention of the Act is concerned, the Committee find it difficult to see what real objection there could be to this course. It may be added that the clause in question was recommended unanimously by the Informal Committee of Ministers both in September and in December last.

8. The Committee further support the view that the following clause should be inserted after the proposed clause 3 discussed in the preceding paragraph:—

> "Nothing in this Instrument shall affect the rights and obligations of the Ruler of this State in relation to the Crown with respect to any matter not within the functions exercisable by, or on behalf of, the Federation by virtue of this Instrument, and no Federal authority shall have jurisdiction with respect to such rights and obligations".

The effect of the two clauses read together would be that no one but the Federal authorities (or the Ruler) is to perform Federal functions, and that Federal authorities are not to interfere in the relations between the Crown and the Ruler. Section 285 does not seem to cover the subject fully, for it does not mention the rights of the Rulers, and the reference in it to the obligation of the Crown does not necessarily cover all such rights. Section 2 refers only to powers connected with the exercise of the functions of the Crown. Neither of these Sections fully covers the principle that the relations of the Ruler and the Crown are continued separate and distinct from their relations with the Federation and without interference by Federal authorities. It may be mentioned that this clause was urged by the Informal Committee of Ministers in September last, and at their recent meeting in December the Committee maintained their request for its inclusion.

9. Clause 4, paragraph 2, of the States' draft Instrument of 9th July, 1936, has not been accepted. Its object was to guard against a possible implication that the legislative powers conferred on the Federation by particular sections of the Act are tacitly accepted by the States. If clause 4 (2) were adopted, the Ruler, by his Instrument, would be sure that he would be accepting only such items of the Federal Legislative List and such legislative powers in the body of the Act as are specified in his Instrument. It might be urged that the Federal Legislature will not have power to make laws for the State except in regard to matters which have been expressly accepted in the Instrument and that the only matter which a State will be required to accept in the Instrument will be the items in the Federal Legislative List. Thus, for example, Section 215 of the Act corresponds to item 53 of the Federal Legislative List and if that item is not accepted the legislative power under Section 215 will not be exercisable for the State. The proposal

to implement Section 138 (3) by the addition of a new item to the Federal Legislative List corresponding to it is satisfactory, but is based on an interpretation of the Act and the Instrument that the Federal Legislature will have no power to make laws for the State on any matter, unless that matter has been specifically accepted in the Instrument. The Committee consider that if the Second paragraph of the proposed clause 4 were included, this would clearly be the position; if not, the Court may take a different view. The consequence appears so grave as not to warrant leaving the matter to the hazard of interpretation by the Federal Court. Section 101 is not a sufficient protection by reason of the fact that it only refers one back to the Instrument and if there is any room for doubt in the Instrument the defect is not cured by the Act. The possibility of doubt in the Instrument arises from the fact that by clause 1 of the Instrument the State authorises the Federal Legislature to exercise, subject to the terms of the Instrument, such functions as may be vested in them by the Act. *Prima facie*, the words "such functions as may be vested in them by the Act" would include all legislative powers which under any section of the Act, read in conjunction with section 99 (1), purport to be made applicable to a State. Section 99 (1) must itself be read in conjunction with all legislative powers conferred by the Act, and it is immaterial whether a section confering legislative power does or does not expressly mention the States, since in any case the States are brought in by Section 99 (1), unless there is some other provision of the Act to exclude them. The only other provision of the Act which might be relevant in this connection is Section 101 which, as stated above, does not appear to be a sufficient protection. The clause has been pressed by the Informal Committee of Ministers in their meetings in September and December last, and the present Committee desire to identify themselves with that view.

10. Clause 13 of the States' draft Instrument of 9th July 1936, has not been accepted, and an apprehension has been expressed that it might, as it stands, have possible reactions on the powers of the Crown. It was not the intention of the Clause that it should have such effect, and in order to meet the objection the following amendment is suggested which may take the place of Clause 6 of the draft Instrument as circulated to the States:—

> "Nothing in this Instrument affects the continuance of my sovereignty in and over this State or, save as provided by this Instrument or by any law of the Federal Legislature made in accordance therewith, the continuance of any of my powers, authority and rights, and the exercise of any of such powers, authority and rights in and over this State is, save as above, reserved to me".

The Committee desire to add that the inclusion of the term "reserved" as suggested both in the present clause and in the one proposed in the draft of the 9th July, is important. The term was included in the Government drafts of February and March 1935.

11. Clause 11 of the States' draft of 9th July; 1936, had for its object, the protection of treaty and other rights within the Federal sphere which could be affected by Federal Legislation outside the State The clause provided for an additional Schedule which would enumerate such rights. The objection has been raised—(a) that the Instrument cannot deal with matters outside the State, and (b) that in any case the right of the Federal Legislature to legislate in British India or outside the State cannot be fettered by the Instrument of Accession of a State. Further, Section 12(1) (g) of the Government of India Act has been referred to as affording protection for such rights in the Governor General's discretion. Article XV of the Instrument of Instructions to the Governor-General, however, makes it clear that protection under Section 12(1) (g) is intended to cover rights in the non-Federal sphere. The Committee are not weddəd to the form in which the protection is afforded but share the view expressed by the Informal Committee of Ministers in their letter to Sir Bertrand Glancy No. 68 CC dated 21st January, 1937, that the protection should be legal. While leaving it to the Government of India to suggest the form in which such legal protection may be given, it is felt that the object may be gained by recourse to agreements, such as those contemplated under Section 204 (1) (a) (iii), between the Federation and the State which may specifically be made subject to the jurisdiction of the Federal Court.

12. On the question of Administration, the Committee desire to explain that Federal executive authority in relation to items to which a State accedes is dealt with in five different ways in the Act and the proposed Instrument. The basic assumption as made clear in Clause 3(2) of the Government Draft Instrument is that where there is a limitation on legislative authority there will be limitation on the executive authority.

(a) An absolute limitation upon executive authority under Section 6 (2).

(b) An administrative agreement under Section 125.

(c) An entrusting of duties under Section 124 (1) conditionally or otherwise with the consent of the Ruler

(d) A conferment or imposition of duties under Section 124 (3) for which under Section 124 (4) a financial compensation shall be payable.

(e) Where the Federal executive authority obtains, but is not exercised, concurrent executive authority will be exercisable by the States (Section 8 (2)).

The admissibility of a limitation upon federal executive authority under Section 6 (2) of the Act may possibly be questioned and it might be urged that in any case such a limitation was unlikely to be acceptable since it would exclude the possibility of the Governor-General in his discretion satisfying himself by inspection or otherwise that administration was being carried out in accordance with the Federal

policy. The Committee takes the view that on the wording of the Act and paricularly of Sectien 8 (1) (ii) the admissibility of an executive limitation under Section 6 (2) is clear. Moreover, one of the main reasons why the States objected to the original form of clause 6 in the Bill as presented to Parliament was that it did not permit of executive limitations differing from the legislative limitations and it was to meet this point that Section 6 (2) was amended to its present form. The Committee, therefore, considerd that any rejection on principle of executive limitations should be questioned by the States. At the same time, the Committee would agree that a provision in the Admininistrative Agreement is generally a more suitable method of executive limitations than Section 6 (2). It is thought that each case in which such limitations are proposed ought to be examined on its merits. The method of providing for executive reservations by an Administrative Agreement under Section 125, is, however, recommended only where such reservation is intended or possible and each State will have to consider the choice for itself, bearing in mind both the requirements of Federal standards and of financing the administration wherever so reserved. Similarly, each State will have to determine what items to cover by administrative agreements.

Where there is no such reservation either under Section 6 (2) or under Section 125, Federal executive authority will be exercised by the Federation either under Section 124 (1) or under Section 124 (3) and if under the two above Sections neither the Governer-General entrusts to the Ruler nor the Federal Legislature by an Act confers or imposes duties, the concurrent authority of the State, as already explained, will continue to be exercised under Section 6 (2), unless the Federation prefers to implant its own Federal authority within the State.

13. The Committee have examined the items in the Federal Legislative List with a view to suggesting (a) reservations applicable to the generality of States and (b) reservations which the Committee considered it to be necessary for protecting special interests. They have also formulated general limitations applicable to several items and concerning such matters as land acquisition, discrimination so far as taxation is concerned and the liability of Federal Agents and Officers to the jurisdiction of the laws of the States. These are included in Annexure V of the present Report. In suggesting these limitations the Committee desire to make it clear that each State will have to determine the limitations under which it proposes to accept each item as it will no doubt have to consider its own individual requirements. Nor can the committee take any responsibility for the form of the limitations suggested and it would be for each State to take comptent legal advice so as to see what particular form is best suited for its ends.

14. The Committee endorse the view expressed in the Hyderabad Memorandum, paragraph 36, which favours the strengthening of clause XV of the Governor General's Instrument of Instructions so as to permit the Governor General's intervention in less serious cases of discrimination than those which may necessarily emperil the economic life of a State.

15. The Committee recognise that the present occasion may not be convenient for a discussion of the question of Paramountcy, but they would recommend that the question may, in its relation to Federation be taken up in the not too distant future. The advantage of further clarifying the practice governing the exercise of Paramountcy was recognised by the Secretary of State in his Despatch of the 14th March, 1936. It is difficult to believe that the exercise of Paramountcy will not be affected by Federation, and questions of no little moment may have to be considered.

Moreover, there is undoubtedly some nervousness amongst Rulers lest they may find themselves faced, even within the Federal field, by the double power of the Federation itself and Paramountcy. The States' understanding is that, broadly speaking, where the Federation can exercise authority, the claim of the Paramount Power to intervene disappears. The Committee recognise that Paramountcy is the ultimate sanction for enforcing Federal obligations, but they assume that a State will be entitled, before Paramountcy intervenes, to have those obligations determined in the Federal Court.

Perhaps the States' general thesis could best be expressed by saying that they rely on the Viceroy as the representative of His Majesty in his special and personal relationship with the States being the friend of the States and not in any sense an agent of of the Federation. This special relationship with His Majesty is very precious to the States and they are concerned to ensure that at some future date the relationship is not weakened by the fact that the Viceroy is also Governor General. It can hardly be denied that the duality of personality existing in the person who is both Governor General and Representative of His Majesty in his relations with the Indian States has in it some elements of danger. Federal responsibilities will necessarily engross the greater part of his time and the distinction between his two personalities could without difficulty become blurred. If it did happen to become blurred the Federal personality would almost certainly become dominant.

Perhaps one step which could usefully be taken to avoid the dangers which the States foresee would be to recognise that this duality of personality should not be repeated in the Political officers in States nor in the recruitment of officers for the Political Service. A Resident in a State, for instance, should be the Agent of His Majesty's Representative but never the Agent of the Governor General and such a separation of functions appears to be correct in theory and necessary in practice.

It obviously might prove of great inconvenience to confine the Resident to the Paramountcy side if this would render necessary the existence of another officer as agent of the Governor General. It appears, however, that there is no room for such an agent. There will be no agent of the Governor General in a Province. Such instructions as the Federation is entitled to give to a Province will be given by the Governor General to the Governor as head of the Province. Similarly, it would seem that such instructions as the Federal Government is entitled to give should be given by the Governor General direct to the State concerned.

Annexure I.

Resolution 3 *of the Informal Conference of Princes held at Bombay on* 30*th October* 1936.

Resolved that a Committee may be constituted consisting of the following for the purpose indicated below:—

Chairman.

His Highness the Maharaja Sahib of Patiala.

Members.

1. His Highness the Chancellor.
2. His Highness of Bikaner.
3. His Highness of Dewas 2.
4. His Highness of Panna.
5. His Highness of Rampur.
6. His Highness the Yuvraj of Limbdi.

and

7. The Rt. Hon'ble Sir Akbar Hydari.
8. Mr. K.A.H. Abbasi of Bhopal.
9. R. B. Pandit Amar Nath Atal of Jaipur.
10. Sir S. M. Bapna of Indore.
11. Sir Manubhai Mehta of Bikaner.
12. Mr. K. C. Neogy of Mayurbhanj.
13. Sirdar K. M. Panikkar of Patiala.
14. Sir Prabhashankar Pattani of Bhavnagar.
15. D.B. D.A. Surve of Kolhapur.
16. Rao Sahib Y. A. Thombare of Sangli.
17. Sir Mirza Ismail of Mysore.
18. Colonel E. J. D. Colvin of Kashmir.
19. Sir V. T. Krishnamachari of Baroda.
20. Sir C. P. Ramaswamy Iyer of Travancore.
21. Sir Shanmukham Chetty of Cochin.
22. Sir K. N. Haksar of Gwalior.
23. Sir Liaqat Hyat Khan of Patiala.
24. Sirdar D. K. Sen of Mandi.
25. Dewan Bahadur B. N. Zutshi of Rewa.
26. Mr. B. H. Zaidi of Rampur.

27. Mr. V. M. Pawar of Dewas 2.

28. R. B. Kanwar Sain of Jodhpur.

29. D. B. Pandit Dharam Narain of Udaipur.

30. Pandit M. C. Sharma, Secretary to H. H. the Chancellor.

31. Khan Bahadur Nabibux Mohd Hussain of Bahawalpur.

32. Mir Maqbool Mahmood of Sachin.

1. To examine the provisions of the Government of India Act from the point of view of the States' entry into Federation.

2. Published reports of regional groups to be made available to this Committee.

3. The Committee to submit report to the Standing Committee of the Princes through His Highness the Chancellor by the end of January, 1937.

Quorum of the Committee to be eleven.

NOTE:—In addition to the ministers included in the above resolution the following representatives were nominated by the regional groups of States to serve on the Constitutional Committee :—

Punjab Group.

1. Mr. N. N. Roy of Sirmoor.

2. L. Anant Ram, Wazir, Bhagat.

C. I. Group.

3. Colonel Zorawar Singh of Panna.

4. Rao Raja R.B S.B. Misra of Orchha.

Gujrat-Bombay group.

5. Khan Sahib P. D. Kothawala, Dewan, Rajpipla.

6. Rao Bahadur Motilal L. Parekh, Dewan Baria.

Kathiawar.

7. Mr. M. D. Solanki, Diwan, Morvi.

8. Mr. K. K. Thakore, Diwan, Cambay.

Eastern States Agency.

9. Kunwar Bijay Pratapsingh, Minister, Seraikella.

10. Pt. Baldeo Prasad Misra, Diwan, Rajgarh.

Rajputana.

11. Mr. C. M. Shroff, Diwan of Partabgarh.

12. Rai Bahadur Bhayya Shadilal, Diwan, Jhalawar.

Annexure II.

List of Princes and Ministers who attended the meetings of the Constitutional Committee held at Patiala House, New Delhi, in January and February, 1937.

Princes.

1. His Highness the Maharaja Dhiraj of Patiala. Chairman.
2. His Highness the Maharaj-Rana of Dholpur.
3. His Highness the Yuvaraj of Limbdi.

Ministers.

Baroda

1. Sir V. T. Krishnamachari.

Bhopal

2. Mr. K. A. H. Abbasi.

Bhavnagar

3. Sir Prabhashankar Pattani.

Bahawalpur

4. Khan Bahadur Nabi Bakhsh Mohammad Hassan.

Baghat (Simla Hills)

5. L. Anant Ram.

Dewas Junior

6. Mr. V. M. Pawar.

Hydrabad Deccan

7. Mirza Ali Yar Khan.

Indore

8. Mr. D. C. Sahni.

Jaipur

9. Rai Bahadur Pandit Amar Nath Attal.

Jhalawar

10. Rai Bahadur Bhayya Shadi Lal.

Mandi

11. Sirdar D. K. Sen.

Mayurbhanj

12. Mr. K. C. Neogy.

Orchha

13. Rao Raja R.B. S.B. Misra.

Patiala

14. Nawab Sir Liaqat Hyat Khan.
15. Sirdar K. M. Panikkar.

Partabgarh

16. Mr. C. M. Shroff.

Rampur (*U. P.*)

17. Mr. B. H. Zaidi.

Sirmoor

18. Mr. N. N. Roy.

Sangli

19. Rao Bahadur Y. A. Thombare.

Sachin

20. Mir Maqbool Mahmood.

Seraikella

21. Kanwar Bijoy Pratabsingh.

Chancellor's Secretariat

22. Mr. M C. Sharma.

Advisers

Judge W. H. Wadhams. Mr. J. H. Morgan K.C. Mr. Manu Subedar.

Observers.

1. The Raja Dhiraj of Shahpura.
2. The Raj Kumar of Shahpura.
3. The Maharaj Kumar of Dewas Junior.
4. The Maharaj Kumar of Sitamau.
5. The Raj Kumar of Seraikella.

Bikaner

6. Thakur Jaswant Singh.

Dungarpur

7. Diwan of Dungarpur.

Janjira

8. Rao Bahadur H. B. Kotak.

Kotah

9. Rai Bahadur Kahn Chand.

Maihar

10. The Diwan of Maihar.

Mudhol

11. R. Baindur Esqr.,

Sachin

12. The Diwan of Sachin.

Shahpura Raj

13. The Diwan of Shahpura.

ANNEXURE III.

List of Safeguards which were proposed on behalf of the Chamber of Princes for incorporation in the Government of India Act.

(A) Essential Safeguards.

1. The sovereignty and autonomy of the States shall be fully respected and guaranteed and there shall be no interference direct or indirect with the internal affairs of the States.

2. No unfriendly act shall be permitted by one Federating unit against the other.

3. No direct tax or levy of any kind including income tax and corporation tax shall be imposed in the State by the Federal Government.

Federal sources of Revenue shall be strictly confined to those mutually agreed upon and no addition to this list will be permissible without the free consent of each State.

4. Federation shall be confined to subjects mutually agreed upon and no addition to these will be permissible without the free consent of each federating State.

All residuary powers shall remain with the States.

5. No change in the constitution shall be permissible without the free consent of the parties concerned except in regard to minor details which may be agreed upon in less rigid manner to facilitate the day to day working of the constitution.

6. The Viceroy will have the power to diasllow any Bill or veto any Act which may adversely affect the rights recognised by treaty or otherwise of any State or States. The Viceroy will also have power to disallow or arrest any executive Act of the Federation which may have similar tendencies.

7. The powers of the two Houses shall be coordinate and equal except that money bills may be introduced in the lower House.

8. The decisions of any matter referred to a joint session shall be by two third majority of the two Houses sitting in a joint session.

9. The States must have at least 40% representation in the Upper House and 33-1/3 percent in the Lower House. The system and method by which their representatives will be chosen must be purely a State concern and no interference of any kind by Federation shall be permitted.

10. The States will enter Federation by means of Treaties made with the Crown for the purposes of Federation.

11. The position of States and British India as partners in Federation shall be that of equal partners; there shall be no question of any partner being directly or indirectly subordinate to the other.

12. There shall be a separate Instrument of Instructions to the Viceroy - as distinct from the Governor-General - and it shall be laid down in it that the Viceroy as the Representative of the King Emperor shall be responsible to ensure respect for the rights of the States as guaranteed to them by their Treaties, engagements and sanads which have been declared as "inviolate and inviolable" and are unalterable without the free consent of the contracting parties.

13. That India shall remain an integral part of the Empire.

14. Federal Court shall derive its authority from the Crown as well as from the Rulers of each Federating State.

15. The jurisdiction of the Federal Court over the Courts of the Indian States shall extend only to questions arising out of the Constitution, in issue before the State Courts. The procedure adopted by the State Courts operating as Federal Courts should be as follows:

The State Courts should refer for opinion to the Federal Court and the State Courts shall give their decisions on the points referred in accordance with the opinion of the Federal Court.

16. An appeal shall lie to the Privy Council in England from the decisions of the Federal Court on matters connected with the Constitution where Constituent Units are involved provided that a suitable formula can be devised which will preserve the sovereignty of the Federating States.

17. The fundamental rights shall find no place in the Federal Constitution and shall not be treated as a Federal subject. They may subject to His Majesty's pleasure find expression in the King Emperor's proclamation as applying only to His British Indian Dominion.

(B) Safeguards open to negotiation.

1. Through some suitable method of augmentation or otherwise it should be secured that the comparative influence of the States in the control of Federal matters is not prejudiced, if only a majority and not the entire body of States join Federation.

2. In the event of a Federating State refusing or otherwise failing to discharge its Federal obligations the enforcement upon that State of compliance with the terms of its Instrument of Accession shall be the function of the Viceroy. In the case of the States which have collectively joined the Federation, the good Offices of the Confederation, will be utilised in the first instance.

3. Provision will be made empowering the Governor-General in his discretion in any case in which he considers that a bill introduced or proposed for introduction or any clause thereof or

any amendment to a Bill moved or proposed would affect the discharge of his "Special Responsibility" for safeguarding the rights of the States guaranteed to them by treaties or otherwise to direct that the bill, clause or amendment shall not be further proceeded with.

4. In matters not specifically delegated to the Federal Government the servants of the Federal Government in the execution of their duties within the territories of a State shall be subject to the internal sovereignty and laws of the State concerned.

5. The power to make legislation in Federal matters will be:

a. Exclusive, being vested in the Government and being confined only to matters where the States units had not retained the work of administration.

b. Concurrent, remaining with the Federal Government as well as with the legislature of the States units. In matters where the Federal legislature has made no law the States may make their own legislation, but where the Federal Government has already passed any law the States may also pass laws adapted to their own local conditions provided there is no conflict;

Federal laws will prevail over State laws where there is a conflict.

In all remaining matters the States have the residuary power of legislation.

Annexure IV

Revised draft of the Instrument of Accession.

Instrument of Accession of .....(insert full name and title).

WHEREAS proposals for the establishment of a Federation of India comprising such Indian States as may accede thereto and the Provinces of British India constituted as autonomous Provinces have been discussed between representatives of His Majesty's Government, of the Parliament of the United Kingdom, of the Rulers of the Indian States and of British India.

AND WHEREAS those proposals contemplated that the Federation of India should be constituted by an Act of the Parliament of the United Kingdom and by the accession of Indian States.

AND WHEREAS provision for the constitution of a Federation of India consisting of the Rulers of Indian States, the Provinces called Governors' Provinces and the Provinces called Chief Commissioners' Provinces, has now been made in the Government of India Act, 1935, but it is by that Act provided that the Federation shall not be established until such date as His Majesty may by Proclamation declare and such declaration can not be made until the requisite number of Indian States have acceded to the Federation.

AND WHEREAS the said Act cannot apply to any of my territories save by virtue of my consent and concurrence signified by my accession to the Federation.

NOW THEREFORE,

I.....(insert full name and title)

Ruler of.....(insert name of State).

In the exercise of my sovereignty in and over my said State.

Do hereby execute this my INSTRUMENT OF ACCESSION and

1. I HEREBY DECLARE that subject to His Majesty's acceptance of this Instrument, I accede to the Federation of India as established under the Government of India Act, 1935, (hereinafter referred to as "the Act") with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal Authority established for the purposes of the Federation shall, by virtue of this my Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to the State of.....(hereinafter referred to as "this State") such functions as may be vested in them by or under the Act.

2. I HEREBY ASSUME the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. NOTHING IN THIS INSTRUMENT shall affect the rights and obligations of the Ruler of this State in relation to the Crown with respect to any matters not within the functions exercisable by, or on behalf of, the Federation by virtue of this Instrument and no Federal Authority shall have jurisdiction with respect to such rights and obligations.

4. NO FUNCTION in respect of any matters specified in the First Schedule hereto or under any provision of the Act which applies to this State by virtue of this Instrument of Accession shall be exercised in relation to this State by any authority other than a Federal Authority, and save in accordance with the terms of this Instrument.

5. I ACCEPT the matters specified in the First Schedule hereto as the matters with respect to which the Federal Legislature may make laws for this State, and in this Instrument and in the said First Schedule I specify the limitations to which the power of the Federal Legislature to make laws for this State, and the exercise of the executive authority of the Federation in this State, are respectively to be subject.

Where under the First Schedule hereto the power of the Federal Legislature to make laws for this State with respect to any matter specified in that Schedule is subject to a limitation, the executive authority of the Federation shall not be exercisable in this State with respect to that matter otherwise than in accordance with and subject to that limitation.

The Federal Legislature shall not have power to make laws for this State save with respect to matters so specified and subject to such limitations.

6. THE particulars to enable due effect to be given to the provisions of Sections 147 and 149 of the Act are set forth in the Second Schedule hereto.

7. REFERENCES in this Instrument of laws of the Federal Legislature include references to Ordinances promulgated, Acts enacted and laws made by the Governor-General of India under Sections 42 to 45 of the Act inclusive.

8. NOTHING in this Instrument affects the continuance of my sovereignty in and over this State or, save as provided by the Instrument or by any law of the Federal Legislature made in accordance therewith, the continuance of any of my powers, authority and rights, and the exercise of any of such powers, authority and rights in and over this State is, save as above, reserved to me.

9. NOTHING in this Instrument shall be construed as authorising Parliament to legislate for or exercise jurisdiction over this State or its Ruler in any respect.

Provided that the accession of this State to the Federation shall not be affected by any amendment of the provisions of the Act mentioned in the Second Schedule thereto, and the references in this Instrument to the Act shall be construed as references to the Act as amended by any such amendment; but no such amendment shall, unless it is accepted by the Ruler of this State in an Instrument supplementary to this Instrument, extend the functions which, by virtue of this Instrument, are exercisable by His Majesty or any Federal authority in relation to this State.

10. THE Schedules hereto annexed shall form an intergal part of this Instrument.

11. THIS INSTRUMENT shall be binding on me as from the date on which His Majesty signifies his acceptance thereof, provided that if the Federation of India is not established before the day of Nineteen Hundred and , this Instrument shall, on that day, become null and void for all purposes whatsoever.

12. I HEREBY DECLARE that I execute this Instrument for myself, my heirs and successors, and that accordingly any reference in this Instrument to me or to the Ruler of this State is to be construed as including a reference to my heirs and successors.

THIS INSTRUMENT OF ACCESSION (then follows the attestation to be drawn with all due formality appropriate to the declaration of Ruler.)

(Additional Paragraphs for Insertion in Proper cases.)

A. WHEREAS I am desirious that functions in relation to the administration in this State of laws of the Federal Legislature which apply therein shall be exercised by the Ruler of this State and his officers and the terms of an agreement in that behalf have been mutually agreed between me and the Governor-General of India and are set out in the Schedule hereto:—

NOW THEREFORE I hereby declare that I accede to the Federation with the assurance that the said agreement will be executed and the said agreement when executed shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

B. THE provisions contained in part VI of the Act with respect to interference with water supplies, being Sections 130 to 133 thereof inclusive, are not to apply in relation to this State.

C. WHEREAS notice has been given to me of His Majesty's intention to declare in signifying this acceptence of this my Instrument of Accession that the following areas

are areas to which it is expedient that the provisions of sub-Section (1) of Section 294 of the Act should apply:

NOW THEREFORE I hereby declare that this Instrument is conditional upon His Majesty making such a declaration.

ANNEXURE V.

Statement showing the items of Federal Legislative List and the limitations recommended in respect thereof

Items as contained in the Act.	Proposed limitations.
Item 1. His Majesty's naval, military and air forces borne on the Indian establishment and any other armed force raised in India by the Crown not being forces raised for employment in Indian States or military or armed police maintained by the Provincial Governments; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment; central intelligence bureau; preventive detention in British India for reasons of State connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States.	1. Wherever rights are enjoyed under treaties they may require specific reservations. 2. The Federal Legislature shall not have power to make laws affecting the right of this State that the officers of all units of any armed forces of the State which are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment shall be officers of this State. 3. Any law of the Federal Legislature with respect to the discipline of or promotion in any armed forces of this State which are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment shall be in accordance with and give effect to any agreement between this State and the Governor-General of India with respect to such discipline or promotion. 4. No forces coming under this item shall enter this State, except at the request of His Majesty's Representative and in the exercise of the functions of the Crown in its relations with Indian States.

Items as contained in the Act.	Proposed limitations.
Item 2. Naval, military and air force works; local self-Government in cantonment areas (not being cantonment areas of Indian State troops), the regulation of house accommodation in such areas, and, within British India, the delimitation of such areas.	(1) The Federal Legislature shall not have power to make such laws in respect of naval, military and air force works belonging to this State. (2) The Federal Legislature shall have no power to make laws for the State establishing such naval, military and air force works without the consent of the Ruler of this State, provided that such consent is not unreasonably withheld.
Item 3. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.	The Federal Legislature shall not have power to make laws for the State with respect to interstatal extradition.
Item 4. Ecclesiastical affairs, including European cemeteries.	The power of the Federal Legislature to make laws for the State with respect to Ecclesiastical affairs shall be limited to the provision of Christian ministrations for members of His Majesty's Forces or persons in the service of the Crown in India.
Item 5. Currency, coinage and legal tender.	A State that now has any right with respect to any of the matters in this item, and which desires to continue the same free from Federal control, must reserve it by a special limitation.
Item 6. Public debt of the Federation.	No limitation.

Items as contained in the Act.	Proposed limitations.
Item 7. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication, Post Office Savings Bank.	(1) This item shall not apply to telegraphs, telephones and Post Offices wholly within and owned or controlled by the State, nor prohibit the establishment by the Ruler in this State of wireless and braodcasting Stations subject to Federal rules and regulations, and the manufacture of apparatus therefor. (2) No wireless or broadcasting station or other like forms of communication shall be established in this State without the consent of the Ruler of this State provided that such consent shall not be unreasonably withheld. (3) If this State desires that the Post Offices inside its territory shall not carry on banking operations such operations shall not be carried on. *Note.* A State that now has any right with respect to any of the matters in this item and which desires to continue the same free from Federal control must reserve it by a special limitation.
Item 8. Federal Public Services and Federal Public Service Commission.	The Federal Legislature shall not be empowered to pass legislation exempting the Federal Officers under this item from any tax leviable by this State.
Item 9. Federal pensions, that is to say, pensions payable by the Federation or out of federal revenues.	No limitation.
Item 10. Works, lands and buildings vested in, or in the possession of, His	An understanding should be reached with the Government of

Items as contained in the Act.	Proposed limitations.
Item 10 *continued.* Majesty for the purposes of the Federation (not being naval, military or air force works), but, as regards property situate in a Province, subject always to Provincial legislgtion, save in so far as Federal law otherwise provides, and, as regards property in a Federated State held by virtue of any lease or agreement with that State, subject to the terms of that lease or agreement.	India at the time of executing the Instrument of Accession as to precisely what powers are really desired and acceptance of this item should be limited to those powers. In the case of any property held by the Government within the State without any lease or agreement with the State, a lease or agreement will be necessary.
Item 11. The Imperial Library, the Indian Museum, the Imperial war Museum, the Victoria Memorial, and any similar institution controlled or financed by the Federation.	The Federal Legislature shall not have power to make laws providing for the establishment in this State, without the consent of the Ruler of any institution falling within the item provided that such consent shall not be unreasonably withheld.
Item 12. Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.	The Federal Legislature shall not have power to make laws providing for the establishment in this State, without the consent of the Ruler of any institution falling within the item provided that such consent shall not be unreasonably withheld.
Item 13. The Benares Hindu University and the Aligarh Muslim University.	No limitation.
Item 14. The Survey of India, the Geological, Botanical and Zoological Surveys of India; Federal meteorological organizations.	1. If the Ruler of this State gives notice to the Governor-General of India that he objects to the entry into the State of any named Officer or Agent of the Federation, charged with the performance of functions in relation to any of the matters mentioned in this item, such Officer or Agent will not enter the State or perform such functions therein.

Items as contained in the Act.	Proposed limitations.
Item 14 *Continued.*	2. The information acquired or the material collected in such Surveys shall be placed unreservedly at the disposal of the State, and in regard to the Geological Survey shall be kept confidential if so required by the State.
Item 15. Ancient and historical monuments; archæological sites and remains.	1. This item shall apply only to such monuments, sites and remains in this State as the Ruler of this State may designate. 2. The Federal Legislature shall not make any law depriving this State of its proprietory right in archæological antiquities discovered within the territories of this State, or to remove them out of this State without the consent of the Ruler of this State. 3. The Functions of the Federation with respect to this item shall be exercised within the State only with the consent of the Ruler of this State, provided that such consent shall not be unreasonably withheld.
Item 16. Census.	It is suggested for the guidance of the States that the States requiring modification of or limitations on this item, will have to specify them in their Administration Agreements under Section 125. In this connection the States' attention is invited to the following :— (a) Designation of caste and religion of the people should be reserved for determination by the Ruler.

Items as contained in the Act.	Proposed limitations.
Item 16 *Continued.*	(b) Any additional information needed by a State e.g., whether a particular individual was literate in a particular language, may be called for.
Item 17. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India, subjects of any Federated State, or British subjects domiciled in the United Kingdom; pilgrimages to places beyond India.	No law made by the Federal Legislature in respect of any one of the subjects in this item shall affect the right and power of the Ruler of this State to refuse to admit into his territories or to expel therefrom any person or persons whose admission into or presence in the said territories may, in his opinion, be undesirable.
Item 18. Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.	No *limitation.*
Item 19. Import and export across customs frontiers as defined by the Federal Government.	*Note.* 1. A State that now has any right with respect to any of the matters in this item, and which desires to continue the same free from Federal control, must reserve it by a special limitation. 2. The Federal Legislature shall not have power to make laws defining a customs frontier that passes through any part of the territory of the State. 3. Nothing in this item will affect the right of this State to levy import and export duties on goods coming to and going from its territories. 4. Attention is invited to the following recommendation made by the Finance Committee in this behalf:—

Items as contained in the Act.	Propsed limitations.
Item 19 *Continued.*	In the case of States which levy duties of import or export across the land frontier a specific provision should be made in their Instruments of Accession to exclude the land frontier of such States from the legislative authority of the Fedration, and to ensure that no action will be taken by the Federation interfering with the Rulers' right to impose a customs cordon and to levy import and export duties on the land frontier of their States. In addition, this right along with the existing right of free trade with British India should be "listed" among the rights of the States concerned.
Item 20. Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.	*Note.* 1. Attention of the States is invited to the proviso in Section 181 (2) of the Act. 2. It is suggested that in respect of the retrocession of jurisdiction representations may be made by the States to the Political Department of the Government of India individually or collectively through the Chancellor of the Chamber of Princes. 3. There does not appear to be any question of taxation under Item 20 so far as Railways other than Federal railways are concerned, but the matter may be further examined by the States concerned in consultation with their Legal Advisers, particularly from the point of view of Item 46. 4. Attention is invited to the Note by the Counsel for the Western India States on Item 20 viz, Railways, which is appended as Annexure VI.

Items as contained in the Act.	Proposed limitations.
Item 21. Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.	Such of the Maritime States as have any rights under this item should make suitable limitations to preserve their rights; Admiralty jurisdiction may be excluded.
Item 22. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.	A State that has any right with respect to any of the matters in this item and which desires to continue the same free from Federal control, must reserve it by a special limitation.
Item 23. Fishing and fisheries beyond territorial waters.	A State that has any right with respect to any of the matters in this item and which desires to continue the same free from Federal control, must reserve it by a special limitation.
Item 24. Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.	1. The Federal Legislature shall not have power to restrict the right of this State to permit the operation of intra-state services. 2. The Federal Legislature shall not have power to make laws for the State affecting the prohibition or restriction by the State of aircraft taking up or setting down passengers or goods in the State without its consent. 3. The Federal Legislature shall not have power to make laws for the State affecting the prohibition or restriction by the State of air navigation over areas from time to time declared by the State to be prohibited or restricted areas, 4. The Federal Legislature shall not have power to make laws for the State affecting the maintenance by the State of

Items as contained in the Act.	Proposed limitations.
Item 24 *Continued.*	customs aerodromes or the enactment or execution by the State of laws requiring air-craft importing goods into the State to alight, be examined or pay duties at such aerodromes. 5. The Federal Legislature shall not have power to make laws for the State with respect to, or prohibiting the manufacture of, air-craft or parts of the air-craft in the State.
Item 25. Lighthouses, including light-ships, beacons and other provision for the safety of shipping and aircraft.	1. The Federal Legislature shall not have power to make laws for the State providing for the establishment in the State of lighthouses, beacons, or other provision for the safety of air-craft without the consent of the Ruler of this State, provided that such consent shall not be unreasonably withheld. 2. The Federal Legislature shall not have power to make laws for this State with respect to or prohibiting the manufacture in the State of lighthouses, beacons or other provision for the safety of air-craft or parts of light-houses, beacons or such other provision in the State. 3. This item shall not prevent a State from erecting its own light-houses subject to conformity to the provisions of law on the subject.
Item 26. Carriage of passengers and goods by sea or by air.	1. The Federal Legislature shall not have power to restrict the right of this State to permit the operation of intra-state services.

Items as contained in the Acs.	Proposed limitations.
Item 26 *Continued.*	2. The Federal Legislature shall not have power to make laws for the State affecting the prohibition or restriction by the State of air-craft taking up or setting down passengers or goods in the State without its consent. 3. The Federal Legislature shall not have power to make laws for the State affecting the prohibition or restriction by the State of air navigation over areas from time to time declared by the State to be prohibited or restricted areas. 4. The Federal Legislature shall not have power to make laws for the State affecting the maintenance by the State of customs aerodromes or the enactment or execution by the State of laws requiring air-craft importing goods into the State to alight, be examined or pay duties at such aerodromes. 5. The Federal Legislature shall not have power to make laws for the State with respec to or prohibiting the manufacture of air-crafts or parts of the air-craft in the State.
Item 27. Copyright. inventions, designs, trade-marks and merchandise marks.	1. In so far as any rights in respect of copyright, inventions, designs, trade marks or merchandise marks subsist under the law of the State at the date of coming into force of any Federal law with respect to any of such matters, the Federal Legislature shall not have power to make laws for the State prejudicially affecting such subsisting rights or affecting the continuance of the law of the State under which such rights subsist so far as the same is necessary for the protection of such rights,

Items as contained in the Act.	Proposed limitations.
Item 27 (contd.)	provided that the law of the Federal Legislature whereby such subsisting rights are given the same recognition within the State as they would have if they had been secured under Federal law, shall not be deemed prejudicially to affect such rights. 2. In addition, the States will require reservations to meet the following points:— a. The possibility that designs, trade-marks or merchandise marks might be acquired under Federal law having on them the personal effigy of the Ruler of the State or of some members of his family. It would probably be necessary to reserve his right to prevent the use in the State of marks bearing such an effigy. b. A reservation to give the State the right to use inventions for State purposes.
Item 28. Cheques, bills of exchange, promissory notes and other like instruments.	No limitation.
Item 29. Arms, fire-armes; ammunition.	1. By virture of this entry the authority of the Federation with respect to this State shall be confined only to traffic in arms of precision and firearms of prohibited bore and ammunition therefor. 2. Any specific rights which a state desires to be reserved even within the limited sphere proposed in this item may be secured by specific reservations.

Items as contained in the Act.	Proposed limitations.
Item 30. Explosives.	The power of the Federal Legislature to make laws for the State with repect to explosives shall be limited to the making of laws with respect to the possession, storage and transport of explosives by persons other than the Military and Police forces of the State or other Departments of this State.
Item 31. Opium, so far as regards cultivation and manufacture, or sale for export.	*Note.* A State that now has any right with respect to any matter in this item and which desires to continue the same, must reserve it by a special limitation.
Item 32. Petroleum and other liquids and substances declared by Federal law to be dangerously inflammable, so far as regards possession, storage and transport.	The Federal Legislature shall not have power to make laws with respect to the possession, storage or transport of petroleum or other motor spirit by the Military or Police forces of the State or other Departments of the State.
Item 33. Corporations, that is to say, the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Federated State and carrying on business only within that State or cooperative societies, and of corporations, whether trading or not, with objects not confined to one unit.	1. The Federal Legislature shall not have power to make laws for the State affecting:— (a) The exclusion by the State of any corporation (other than a corporation owned or controlled by the Federation) from carrying on business within the State or the imposition by the State of conditions subject to which a Corporation (other than as aforesaid) may so carry on business; or (b) Provision by the State that the assets situate within the State of any corporation which carries on or has carried on business within the State shall be wound up in the courts of the State and provision by the State for giving priority in such winding-up

Items as contained in the Act.	Proposed limitations.
Item 33 *Contd.*	to debts due to the State or the Ruler thereof, Provided that (except as regards such priority) such winding-up shall be conducted in accordance with any Federal law applicable thereto; (c) The incorporation, regulation and winding-up by the State of trading corporations, including banking, insurance and financial corporations, having objects confined to the State. 2. The corporations already incorporated under the State law and carrying on business in the State as well as outside shall receive the status of a corporation incorporated under the Federation without payment of any fees, but subject only to articles of general aplicability being brought in conformity to Federal corporation law.
Item 34. Development of Industries, where development under Federal control is declared by Federal law to be expedient in the public interest.	1. The power of the Federal Legislature to make laws for this State with respect to development of industries shall be limited to providing for subsidies, and national institutions for furthering the development of industries by research, education or propaganda not being institutions empowered to carry on or control an industry. 2. The Federal Legislature shall not have power to make laws for the State affecting the provision

Items as contained in the Act.	Proposed limitations.
Item 34 (*contd*)	by the State of subsidies for industries carried on within the State.
Item 35. Regulation of labour and safety in mines and oil-fields.	Accession to this item is recommended subject to the reservation that the regulation of labour shall be limited to the regulation of the safety of labour in mines and oil-fields.
Item 36. Regulation of mines and oil-fields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal law to be expedient in the public interest	This item is a new one as regards the Federal List. In the White Paper it is partly Provincial (No. 66) and partly concurrent (No. 13). Acceptance of the item without reservation would enable the Federation to regulate and control the whole subject of mining and oil-fields in the States. Laws might be passed laying down how mines and oil-fields are to be exploited and by whom although it is not thought that the item can properly be read as authorising the Federation itself to appropriate mines and oil-fields or their profits. Under "mineral development" such matters as prospecting licenses could be provided for and these words would probably cover the prohibition or restriction of mining in given areas with a view to conservation of mineral resources. As in the case of item 35 all these matters are at present within the States' exclusive jurisdiction. The States may not be prepared to hand over the wide powers in question to the Federation, and it is highly desirable that any powers possessed by the Federation under this item should be uniform for all the States. The Committee attempted to formulate a limitation applicable

Items as contained in the Act.	Proposed limitations.
Item 36 (*contd*)	to all the States, but in view of the wide scope of the item itself, the Committee do not recommend its acceptance.
Item 37. The law of insurance, except as respects insurance undertaken by a Federated State, and the regulation of the conduct of insurance business, except as respects business undertaken by a Federated State; Government insurauce, except so far as undertaken by a Federated State, or, by virtue of any entry on the Provincial Legislative List or the Concurrent Legislative List by a Province.	No limitation is suggested, as the limitation under Item 33 will be applicable as far as Insurance corpocrations are concerned.
Item 38. Banking, that is to say, the conduct of banking business by corporations other than corporations ownd or controlled by a Federated State and carrying on business only within that State.	No limitation is suggested on the assumption that the limitation under item 33 may be held to apply to Banking Corporations coming within the definition of this item.
Item 39. Extension of the powers and jurisdiction of members of a police force belonging to any part of British India to any area in another Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner as the same may be; extension of the powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit.	The States should accept this part of the item subject to the limitation mentioned below on the understanding that jurisdiction over railway lands is retroceded. The limitation in question is as follows:— "Subject to the limitation that members of a Police Force belong-

Items as contained in the Act.	Proposed limitations.
Item 39 *continued.*	ing to another unit shall only exercise powers or jurisdiction in this State where an agreement has been made between the State and such other unit for the exercise of corresponding powers and jurisdiction by members of the State Police Force in such other units".
Item 40. Elections to the Federal Legislature, subject to the provisions of this Act and of any order in Council made thereunder.	The Committee recommend that the States may not federate on this item.
Item 41. The salaries of the Federal Ministers, of the President and Vice President of the Council of State and of the Speaker and Deputy Speaker of the Federal Assembly; the salaries, allowances and privileges of the members of the Federal Legislature; and, to such extent as is expressly authorised by part II of this Act, the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislature.	The Federal Legislature shall not have power to make laws for the State :— (a) Making compulsory the attendance before a Chamber of the Federal Legislature or a Committee thereof of any person who is in the service of the Ruler of this State or the giving of evidence by any such person unless the Ruler shall have consented to the attendance of or the giving of evidence by such person; or (b) Making compulsory the production before a Chamber of the Federal Legislature or a committee thereof of any document which an officer designated by the Ruler of this State for that purpose shall certify to be a confidential document relating to the affairs of the State or to the personal affairs of the Ruler or his family; or (c) Imposing any punishment on any such person as aforesaid who refuses so to attend

Items as contained in the Act.	Proposed limitations.
Item 41 (*contd.*)	or give evidence or on any person who refuses so as to produce any such document as aforesaid. *Note*:— It is understood to be the intention to insert a provision in the Instrument of Instructions to the Governor-General after the commencement of part II of the Act which would have the effect of safeguarding the position of the States in regard to the matters referred to above in the manner contemplated by the proviso to Section 28 (4) for persons in the service of the Crown in India and for confidential matters in British India. It is thought that such a provision, if satisfactory in form, would make unnecessary the limitations suggested above.
Item 42. Offences against laws with respect to any of the matters in this list.	The Federal Legislature shall only have power to make laws for the State with respect to offences against laws which under this Instrument of Accession the Federal Legislature has power to make for the State.
Item 43. Inquiries and statistics for the purposes of any of the matters in this list.	1. The Federal Legislature shall not have power to make laws for this State with respect to inquiries or statistics for the purpose of any matter with respect to which the Federal Legislature has not, under this Instrument of Accession, power to make laws for this State. 2. The Federal Legislature shall not have power to make laws for this State affecting

Items as contained in the Act.	Proposed limitations.
Item 43 *Continued.*	the making or holding of inquiries or the collection or publication of statistics by the State or in pursuance of any laws of this State as regards any matter.
Item 44. Duties of customs, including export duties.	*Note.* (1) A State that now has any right with respect to any of the matters in this item, and which desires to continue the same free from Federal control, must reserve it by a special limitation. (2) The Federal Legislature shall not have power to make laws defining a customs frontier that passes through any part of the tarritory of the State. (3) Nothing in this item will affect the right of the state to levy import and export duties on goods coming to and going from its territories. (4) Attention is invited to the following recommendation made by the Finance Committee in this behalf:— In the case of States which levy duties of import or export across the land frontier a specific provision should be made in their Instruments of Accession to exclude the land frontier of such States from the legislative authority of the Federation, and to ensure that no action will be taken by the Federation interfering with the Rulers' right to impose a customs cordon and to levy import and export duties on the land frontier of their States. In addition, this right along with the existing right of free trade with British India should be "listed" among the rights of the States concerned.

Items as contained in the Act.	Proposed limitations.
Item 45. Duties of excise on tobacco and other goods manufactured or produced in India except— a. alcoholic liquors for human consumption; b. opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs; c. medicinal and toilet preparations containing alcohol, or any substance included in sub paragraph (b) of this entry.	In view of the importance of this item and having regard to the recommendation made by the Finance Committee, this committee is of the opinion that His Highness the Ruler of Bhopal might be requested to allow a joint consultation on this item beween some members of the Constitution and Finance Committees, pending which the States are recommended to postpone consideration of the item. It is further recommended that the joint committee should also examine the proposed new item relating to Surcharge.
Item 46. Corporation Tax.	The Federal Legislature shall not have power to make laws providing for the levying of Corporation Tax on any Corporation owned or controlled by, and working within, this State, or for the inclusion in any contribution made by this State in lieu of Corporation Tax of any sum in respect of the income of any such corporation, provided that in the case of corporations controlled by the State this exemption will apply only to the extent of this control.
Item 47. Salt.	*Note*:— If any States are in the enjoyment of any Treaty or other rights under this item, a limitation to reserve such rights will have to be inserted.
Item 59. Fees in respect of any of the matters in this list, but not inclnding fees taken in any Court.	May be accepted subject to the limitation that the power of the Federal Legislature to make laws for this State with respect to fees shall be limited to the matters with respect to which, under the Instrument of Accession of this State, the Federal Legislature has power to make laws for this State.

General limitations.

(a) The Federal Legislature shall not levy or impose any tax or duty in or upon this State or provide for the payment of any contribution by this State which discriminates against this State.

(b) No land or other property shall be acquired in this State on behalf of His Majesty for any Federal purposes, or on behalf of the Federal Railway Authority or any other authority of the Federation except with the consent of the Ruler of this State and upon such terms as may be mutually agreed upon.

(c) The Federal Agents, Officers and Representatives, while engaged in the exercise of their functions in this State, shall be subject to, and observe the laws and regulations of, this State, not inconsistent with the due exercise of their Federal functions.

(d) The legislative power of the Federal legislature to make laws in and for this State shall not, except in items 44, 45, 46 and 47, imply the power to impose any duty or tax.

ANNEXURE VI.

Note by the Counsel for the Western India States on Item 20, (Railways).

Before dealing with the content of the Item it is desirable to mention certain provisions affecting the States' Railways which are to be found in the body of the Act. By Section 193 (1) a duty is imposed upon the Federal Railway Authority and upon every Federated State to exercise their powers in relation to the Railways with which they are respectively concerned so as to afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from those Railways, including the receiving, forwarding and delivering of through traffic at through rates, and so as to secure that there shall be between one Railway system and another no unfair discrimination, by the granting of undue preferences or otherwise, and no unfair or uneconomic competition. An independent Railway Tribunal, whose constitution is provided for in Section 196, is to be the judge as to whether these conditions are fulfilled. Section 194 enables a State aggrieved by an executive order of the Federal Railway Authority relating to interchange of traffic, rates, fares or terminal charges, to complain to the Railway Tribunal. By Section 195 provision is made that, where the Federal Railway Authority or a Federated State desires to construct a new Railway or to alter an old Railway, notice must be given and objections may be lodged on the ground that the proposal will result in unfair or uneconomic competition. The final decision as to whether or not the new Railway is to be built or the alteration of the old Railway is to be made will rest with the Railway Tribunal.

It is to be observed that the provisions of Section 195 will take the place of the present right claimed by the Crown under Paramountcy, and referred to in para VIII of Government's Resolution No. 202-I of 1923 to grant or withhold permission for a State to open a new Railway. Under Federation the State will merely have to satisfy the Railway Tribunal that the Railway is reasonably necessary. There is no reason to suppose that, in all proper cases, the right to proceed with the construction of new lines will not be granted.

It should further be noted that both Sections 193 and 195 are applicable to Minor Railways.

1. Turning now to the Item itself, it is necessary to distinguish between a "Federal Railway", an "Indian State Railway" and a "Minor Railway", for the legislative powers of the Federation differ in each case.

(a) A Railway within a State will be a Federal Railway unless it is both owned by the State and operated either by the State itself or on behalf of the State by

someone other than the Government of India. The fact that a State has a financial interest in and representation on the Advisory Board of a Railway constructed by Government under the provisions of para V of Government Resolution No. 202-I of 1923 will not prevent such a Railway being a Federal Railway for the puposes of the Act. Thus the main turnk lines of India will be Federal Railways, and as such their control will be vested in the Federation completely, although the actual management will devolve upon the Federal Railway Authority whose constitution (set out in Schedule VIII of the Act) is intended to ensure that it will be primarily a non-political body.

(b) The majority of Railways in States in Western India will be Indian State Railways. Over these Railways the Federal Legislature will have power to make laws for safety, maximum and minimum rates and fares, station and service terminal charges, intercharge of traffic and the liability of the Railway administration as carriers. It is to be anticipated that, following the normal practice in Railway legislation, and indeed the whole scheme of Part VIII of the Act, considerable latitude will be left to the executive discretion, either of the Railway administrations in the States or of the Federal Railway Authority, as the case may be, in regard to all these matters except safety and the responsibility of Railway administrations as carriers. States will have a remedy against unreasonable exercise of such executive discretion by the Federal Railway Authority, by complaint to the Railway Tribunal under Section 194 of the Act. With respect to safety, the Federation may under Section 181 (3), and probably will undertake direct control to the exclusion of the Federal Railway Authority of at least a part of the subject; and with respect to responsibility as carriers the intention is to permit of a uniform law throughout India governing standard conditions of carriage applicable to the carriage of passengers and goods.

(c) Minor Railways are defined as Railways which are wholly situated in one unit and do not form part of a continuous line of communicatin with a Federal Railway. Over such Railways Item 20 gives the minimum of powers to the Federation viz., power to make regulations as to safety and to the liability of the administration as carriers of goods and passengers.

It should be noted that neither Part VIII of the Act nor Item 20 deal with the question of the Crown's extra-territorial jurisdiction over the Railway areas of States. That jurisdiction relates not so much to the working of the Railways as to the criminal and civil law to be applied in the Railway areas and the constitution of extra-territorial Courts to deal with offences committed

and disputes arising in such areas. It has been generally assumed that, in principle, the continued existence of extra-territorial jurisdiction of this character is incompatible with the Federal idea and that, where practical considerations permit, the Government of India will be prepared to retrocede jurisdiction to the States. In Western India, however, there are so many breaks of jurisdiction on lines of State Railways that the Government of India may take the view that jurisdiction cannot be retroceded in the Railway areas at any rate of the majority of States. Jurisdiction, if retained by the Crown, will not, by virtue of the Act, become exercisable by the Federation. It will continue to be a Crown jurisdiction and will be adminstered by the Viceroy through the political Department. The Raliway jurisdiction of the Crown within the States includes the right to police the Railway areas. This point is discussed in relation to Item 39.

2. Accession for Item 20 should, on the whole, prove advantageous to States as compared with the present position. The following points should, however, be noted:— (a) acceptance of the Item without reservation might enable a Federal Railway to be built in the State if the proposal for construction is approved by the Railway Tribunal under Section 195; (b) Section 181 (2) would empower the Federal Railway Authority to carry on in a State undertakings ancillary to Federal railways, such as hotels, omnibus services, etc.; (c) the power of the Federal Legislature under Item 20 to provide for "station and service terminal charges" might possibly be used so as to fix these charges in such a way as to interfere with the working of or even to discriminate against State Railways as compared with Federal Railways; (d) the expression "the responsibility of the administrations of Railways as carriers of goods and passengers" in the item might possibly be given an extended meaning; (e) the Act defines a Railway as including a tramway not wholly within a municipal area.

3. With regard to point (a) above it is to be remembered that, although in principle the Ruler's consent may not be required for the construction of a Federal Railway in the State, a Railway cannot be built without the acquisition of land and if, as proposed elsewhere in this Memorandum, a general limitation is inserted in the Instrument of Accession making it clear that the Federation will not have power to acquire land compulsorily in the State, no reservation with regard to construction is necessary in practice.

With regard to point (b) above, a limitation might be suggested providing that no such undertaking as is referred to in Section 181 (2) shall be carried on in the State without the Ruler's consent. This would be a limitation upon the executive authority of the Federation conferred by the sub-section.

With regard to points (c) and (d) above the States might discuss the position with the Emissary with a view to seeing what limitations, if any, are required.

Point (e) above should be borne in mind by States which have tramways.

Some of the provisions in the Act, it will be observed, correspond to the conditions laid down in Government Resolution 202-I of 1923, which, it is understood, the States desire to preserve. Certain of the conditions laid down in that Resolution cannot, however, be preserved in their present from after Federation. These include paragraph V of the Resolution which provides that States will be permitted to invest funds in future Government Railways passing through their own territories or through territories adjacent to the States and will be represented where possible on the Advisory Board of the Railway so constructed. In as much, however, as a Federal Railway, as pointed out above, could not in practice be constructed in a State without its consent, it will be open to the State to make a suitable agreement with the Railway Authority as a term of granting the necessary lands to construct a Federal Railway in its territory. The agreement could be made subject to the interpretation of the Federal Court under Section 204 (I) (a) (iii). There is nothing in the Act to prevent States investing money in Railways in British India outside their territories, although it is difficult to see how States could be guaranteed such a right after Federation. Where a State has an agreement giving it a right to representation on the advisory board of an existing Federal Railway or a financial interest in such Railway the question should be considered of preserving the agreement by a limitation in the Instrument of Accession and, if necessary, by reference in the Clause recommended in paragraph 7 of the Hydari Committee's letter.

Finally, it should be observed that accession for item 20, with or without limitation, may well have considerable effect upon agreements concluded between the States themselves as to the running of their Railways. It will be desirable for a State which is a party to any such agreement to scrutinise its terms with great care and, where necessary, to enter into new agreements with neighbouring States in order to preserve those rights which are not directly affected by accession for this item and to substitute other provisions where the provisions of an existing agreement will be rendered unsuitable by reason of the accession of one or both of the States

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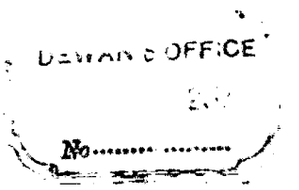

THE REPORT

OF THE

Joint Committee of the Constitutional and Finance Committees on the Federal Excise and the proposed additional item in regard to the levy of Surcharge.

The report of the Joint Committee of the Constitutional and Finance Committees on the Federal Excise and the proposed additional item in regard to the levy of surcharge.

A meeting of the Committee appointed by His Highness the Chancellor of the Chamber of Princes was held on the 19th March, 1937.

Present:

His Highness the Nawab of Bhopal (*in the chair*).

Sir Joseph Bhore.

Col. Sir Kailas Narain Haksar.

Mr. V. M. Pawar.

Mr. Manu Subedar, (the Financial Expert, by invitation.)

His Higness the Maharaja of Dewas Jr. and Sir Manubhai Mehta were unable to be present but Mr. Pawar had been put in possession of all the views of His Highness the Maharaja of Dewas and stated them to the Committee.

The questions committed to the meeting were :

What should be the attitude of the States

I. In regard to item 45, *i.e.* Federal Excises.

II. In regard to the suggestion that a fresh item be added to the Federal List to enable the levy of surcharge on Income Tax under Section 138 (3) ?

With regard to item 45, it is recommended that the States should federate in respect of this item only with the following limitations :—

1. That revenue arising from excise duty on the following articles shall belong to the States :

(*a*) alcoholic liquors for human consumption ;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics ; non-narcotic drugs ;

(*c*) medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (*b*) of this entry ;

2. That the pooling arrangement, which entitles the state to a share in the excise revenue collected on matches and mechanical lighters, shall continue as at present ;

3. That, as at present, the State shall continue to have the right of retaining the whole revenue from excise on sugar produced or manufactured in its territory ;

4. That the revenue from excise on all articles (except sugar and matches) on which central excise is levied at present, but which are not produced in the State territory, shall go to the Federation, subject only to

the continuance of existing arrangements permitting the distribution of a portion of the Excise on petrol for purposes of the Road Development Fund;

5. That no excise duty shall be levied on agricultural produce (except tobacco) or on dairy products;

6. With regard to other articles on which the Federal Legislature may impose excise duties the State shall retain a fixed share of such duty in case such articles are produced or manufactured within its territories.

N.B.—States which at present derive income from the manufacture of kerosine from crude oil may add a further limitation to protect such income.

The foregoing limitations are necessary to safeguard the financial system of the States and to leave to them a source of income which would enable them to meet their administrative needs and requirements as well as to provide for their general development, and the limitations are justified by the following considerations:—

(I) development of industry in a State must of necessity inflict a loss of customs duty from imports, and in conceivable cases from exports and such loss can only be recouped by the retention of the excise duty levied.

(II) As States with inadequate revenues cannot receive subventions from the Federation, all their possible sources of income must be protected.

In so far as the financial exigencies of the Federal Government rendered it impossible to compensate the States for the loss of internal customs (which is a very important source of revenue to most of them) the argument that the retention of excise duty by the States would not be consistent with the fundamental idea of Federation carries no weight. Further, the limitations suggested leave to the Federation the yield of future excise duties on goods not produced in the States.

The financial position at the centre has from the point of view of the States turned out gloomier than it was expected when discussions took place in London, and less bright than it appeared twelve months ago. It is to central excises that the Finance Minister of the Government of India must look for meeting the situation generally. If income tax receipts do not increase and railway finances do not improve, the danger of surcharges on income tax, to which the States will contribute, may be regarded as not distant. It was to guard against immediate new taxation, the burdens of which must fall on the States, that Sir Akbar Hydari and his committee had laid so much stress on a balanced budget at the centre for the year during which the States were called upon to accede to an All-India Federation. There are few sources of increased revenue open to the States, which would bring in a substantial sum immediately. Thus for most of the States it would be very hazardous to yield upto the Federation the entire field of central excises without any limitations that secure the continuance of such income as the States are making, and without providing that some of the new money, that may be raised under central excises, would be retained by the States in certain conditions.

It has been suggested that unless the States unreservedly federate in respect of item 45, their contribution to the Federation would not be adequate. Not only does this Committee believe that having regard to the lower taxable capacity of their subjects, the States do, even today, contribute adequately to central revenues, but further there is no warrant for the suggestion that the contribution of the States is inadequate, if only because no enquiry has ever been made into the taxable capacity of the subjects of the States, and the amount they pay even now to the Centre.

The recommendations of the Committee provide,

(*a*) for the acceptance of the existing burdens in the matter of central excises;

(*b*) the preservation of the existing right to a share of the excise duty on matches, and

(*c*) the retention of the right to appropriate the duty on sugar. In addition they exclude interference, on the part of the Federal Government, with the States' own sphere of taxation comprising land revenue, taxes on agricultural income and taxes on agricultural products (with the exception of tobacco, which was specifically accepted in England), while they secure that wherever new excise duties are levied, a fixed share of such excise duty, collected in a State on articles manufactured in the State shall accrue to the state.

The first suggestion is that the wording of the proposed additional item 60, should be carefully scrutinised. But, in any case, the item will have to be subject to the following limitations :—

(*i*) the income of the Ruler shall not be liable to be included in the calculation of the surcharge, whether such income arises in respect of land or buildings situated in the State, or it be income accruing, arising or received by him in the State.

(*ii*) the income of the State from every source arising in the State, whether from taxation or from commercial undertakings or manufacturing concerns owned by the State shall not be included in the calculation for the purposes of estimating the contribution of a State provided for in Section 138 (3).

The Committee desire to point out that in Section 138 there is no provision corresponding to the one in Section 139 (3) which enables a State to challenge the award of the Federal Auditor General in the Federal Court. It is therefore urged that the States should press for the inclusion of such a provision in the Order-in-Council contemplated in Section 138 (3)

Sd. HAMIDULLAH.

Serial No.

DEWAN'S OFFICE
12 MAY 1937
No. 5008.

Report of the Joint Committee of the Constitutional and Finance Committees on the Federal Excise and the proposed additional item in regard to the levy of Surcharge.

Seen and returned. I think that we could associate ourselves with the position taken up in the above report, which is reasonable and favourable to the States. But we have already sent our Memorandum, expressing our views.

The main recommendations of the above Committee are:-

(1) That the States should be permitted to retain the existing revenue from the Excise Duties on sugar and matches (former based on production and the latter based on consumption);

(2) With regard to Excise Duties which may be levied in future, the States should get a fixed share of them, based on production in the State, leaving to the Federation, the yield on goods not produced in the States; &

(3) That with regard to the levy of surcharge on Income-tax, the income of the ruler, and the income of the State from every source arising in the State, whether from taxation or from commercial

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commercial undertakings or manufacturing concerns owned by the State, shall not be liable to be included/in the calculation for the purpose of estimating the contribution of the State provided for in Section 138(3) of the Government of India Act.

With regard to (1), we have provided in our Memorandum that not only the existing duties on Matches and sugar should be reserved to us but also the excise duties on power alcohol, tobacco and steel, which may be levied in future. It has also been stated that it is proposed to reserve the excise duties on commodities like gold, sandalwood and sandal oil, the production of which in India is for the most part confined to the Mysore State.

As regards (2), a similar idea was in my mind, and I had referred to it in page 5 of my note dated 6th December 1934 on the Report of the Joint Parliamentary Committee. Though in our First Memorandum on the Provisional Draft of the Instrument of Accession we had stated that the question of sharing the future excises should depend on mutual agreement from time to time, and in the memorandum dated 20-10-36 we said that we would not give up future excise duties either, we did not stick to this in our final memorandum, where we have unreservedly agreed to surrender the

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the excise duties on all articles other than tobacco, steel, gold, sandalwood and sandal oil.

In respect of the third point, some reservation has been made in our memorandum (vide last page); and the terms used are somewhat different. But the result I think is the same.

Sewan) 11/5

I don't think we need modify the views we have expressed in our memorandum, which we have gone as far as it is reasonable to go. The Bhopa memorandum goes too far, which cannot hardly be accepted.

13-5-37

Sewan 13/5

* in the matter of "excise"

Pl. see. Copy to Bhopal Hospital ... from Fin. Secy. ... to Simla

Sewan 13/5

Sewan 13/5

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